



BRIGHT FROM THE START
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GOVERNOR

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COMMISSIONER

**ORDER ADOPTING ADMENDMENTS
TO RULE CHAPTER 591-1-1, RULE CHAPTER 290-2-1 AND
RULE CHAPTER 290-2-3**

All interested parties are hereby notified pursuant to Official Code of Georgia Annotated (O.C.G.A.) Sections 20-1A-1 et seq. and 50-13-4 that Bright from the Start: Georgia Department of Early Care and Learning (Department) has considered and adopted amendments to Chapter 591-1-1, Rules for Child Care Learning Centers, Chapter 290-2-1, Rules and Regulations for Group Day Care Homes, and Chapter 290-2-3, Rules and Regulations for Family Day Care Homes. The amendments to these rules shall become effective twenty (20) days after their filing with the Secretary of State's Office as provided by law.

BY THE DEPARTMENT:

Whereas, in a notice of rulemaking dated September 29, 2009, the Department provided notice of its intent to adopt amendments to nine (9) rules contained in Chapter 591-1-1, Rules for Child Care Learning Centers, to adopt amendments to four (4) rules contained in Chapter 290-2-1, Rules and Regulations for Group Day Care Homes, and to adopt amendments to five (5) rules contained in Chapter 290-2-3, Rules and Regulations for Family Day Care Homes;

Whereas, a copy of said notice was furnished to the Legislative Counsel of the State of Georgia, pursuant to O.C.G.A. Section 50-13-4(e);

Whereas, in the same notice, the Department encouraged members of the public to provide written comments on the amendments being proposed;

Whereas, a copy of the written notice of rulemaking was mailed to all interested parties subject to the jurisdiction of the Department pursuant to O.C.G.A. Section 50-13-4(a)(1);

Whereas, a public hearing was held before a Hearing Officer on November 7, 2009 in Macon, Georgia, at which time the Department heard verbal comments and accepted additional written comments on the proposed rule amendments; and

Whereas, after considering the written and verbal comments received, the Hearing Officer issued a report dated November 30, 2009, a copy of which is attached to this Order Adopting Amendments to Rule Chapter 591-1-1, Rule Chapter 290-2-1, and Rule Chapter 290-2-3 in which she recommends the adoption of the amendments to the eighteen (18) rules.

THEREFORE, IT IS ORDERED, that effective December 1, 2009, the Department's rules shall be amended to include the amendments made hereinafter:

**RULES OF
BRIGHT FROM THE START:
GEORGIA DEPARTMENT OF EARLY CARE AND LEARNING**

**CHAPTER 591-1-1
Child Care Learning Centers**

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591-1-1-.03 Activities.

(1) The center shall provide a daily planned program of varied and developmentally appropriate activities that promote the social, emotional, physical, cognitive, language and literacy development of each child. Center staff shall use a variety of teaching methods to accommodate the needs of the children's different learning styles.

(2) Current lesson plans shall be kept on site and reflect appropriate instruction practices and activities to support children's development. The center shall have sufficient and varied play and learning equipment and materials to support the above program of activities in all developmental areas.

(3) Opportunities for each child to make choices in a variety of activities shall be offered. Children with special needs shall be integrated into the activities provided by the center unless contraindicated medically or by written parental agreement.

(a) Variety of Activities. Activities shall be planned for each group to allow for:

1. Indoor and outdoor play;
2. A balance of quiet and active periods;
3. A balance of supervised free choice and caregiver-directed activities;
4. Individual, small group and large group activities;
5. Large muscle activities, such as but not limited to, running, riding, climbing, balancing, jumping, throwing, or digging;
6. Small muscle activities, such as but not limited to, building with blocks or construction toys, use of puzzles, shapes, nesting or stacking toys, pegs, lacing, sorting beads, or clay;
7. Language experiences, such as but not limited to, listening, talking, rhymes, fingerplays, stories, use of film strips, recordings or flannel boards;

8. Arts and crafts, such as but not limited to, painting, coloring, cutting, or pasting;
9. Dramatic play, such as but not limited to, play in a home center, with dolls, puppets, or dress up;
10. Rhythm and music, such as but not limited to, listening, singing, dancing, or making music; and
11. Nature and science experiences, such as but not limited to, measuring, pouring activities related to the "world around us" such as nature walks, plants, leaves or weather or experiences in using the five senses through sensory play.

(b) Activities for Children Under Three. Children less than three (3) years of age shall not spend more than one-half (1/2) hour of time consecutively in confining equipment, such as swings, highchairs, jumpseats, carriers or walkers. Such children shall be allowed time to play on the floor daily.

(c) Outdoor Activities. Outdoor activities shall be provided daily, weather permitting, in accordance with the following:

1. Centers operating five (5) hours or more per day shall provide each child who is not an infant at least one and one-half (1 1/2) hours of outdoor activity per day.
2. Infants shall spend at least one (1) hour daily out of doors.
3. Centers operating less than five (5) hours per day shall provide a brief outdoor period for the children daily.
4. A child may be excused from outdoor activities for a limited period of time if there is documentation that outdoor activity is medically contraindicated or there is an occasional written request by the parent that the child be excused from outdoor activities for a very limited amount of time because of special circumstances.

(d) Individual Attention. Personnel shall provide individual attention to each child as evidenced by:

1. Responding promptly to the child's distress signals and need for comfort.
2. Playing with and talking to the children.
3. Providing and assisting the child with personal care in a manner appropriate to the child's age level, i.e., providing the child privacy in dressing, diapering and toileting functions as the chronological age of the child dictates.

(e) Staff shall not engage in, or allow children or other adults to engage in, activities that could be detrimental to a child's health or well-being, such as but not limited to, horse play, rough play, wrestling, and picking up a child in a manner that could cause injury.

~~(e)~~ (f) Routines for Children. Personnel shall provide routines for toileting, eating, resting, napping (depending upon the age of the children), intervals between activities and doing school homework, if any. Staff shall assist and encourage each child to become independent in the development of self-help skills, such as washing hands and face, dressing, eating and toileting.

1. As they feel the need children shall be allowed to go to the toilet and get a drink of water.
2. Supervised nap or rest periods during the day shall be provided for children under five (5) years of age. Children who do not sleep during nap or rest periods shall not be required to remain lying down for more than one (1) hour.
3. Quiet activities for school-age children and other children who are not asleep shall be provided.

~~(f)~~ (g) Schedules. A daily schedule for each group shall be developed to reflect routines and activities. Schedules shall be flexible but routinely followed to provide structure. The schedule must be posted in each group's room or area and made available to parents upon request.

~~(g)~~ (h) Media Activities. The use of entertainment media, such as television, videotaped programs or movies and video or computer games shall be limited to:

1. Television programs or computer software produced for the benefit of audiences comprised of young children.
2. "G" -rated movies, i.e., movies that have been rated by the motion picture industry as

suitable for a general audience which includes young children, or movies that have not been rated but which have been fully previewed by the administrator who has determined that the movies were produced for the benefit of young children and are appropriate for viewing by young children.

3. No more than two (2) hours daily per child or group.
4. Provided only at times when alternative activities are available for children who choose not to participate.

(h) (i) Evening Activities. During evening and night-time care, activities shall be provided based on children's ages, hours of care and length of time in care. Quiet activities and experiences shall be available immediately prior to bedtime.

Authority O.C.G.A. Sec. 20-1A-1 et seq. **History.** Original Rule entitled "Activities" adopted. F. Dec. 23, 1997; eff. Mar. 1, 1998, as specified by the Agency. **Amended:** F. Aug. 25, 2008; eff. Sept. 14, 2008.

Rule 591-1-1-.06 Bathrooms.

(1) Required Facilities. Flush toilets and lavatories (hand washing sinks) with running water shall be provided in the following minimum ratios for the use of all children:

Number of Children	Toilets and Lavatories *
1-12	1
13-25	2
26-50	3
51-75	4
76-100	5
101-125	6
126-150	7
151-175	8

Each additional group of twenty-five (25) children shall require one (1) additional toilet and lavatory.

* For children being potty-trained, at least one (1) flush toilet shall be provided. ~~Two (2) nursery potty chairs may be substituted for each subsequent required toilet. If used, nursery potty chairs may not be substituted for a required flush toilet.~~

(2) Location of Bathrooms. Bathrooms shall be located on each floor in or adjacent to child care areas and rooms.

(3) In lieu of the requirements set forth in subparagraphs (1) and (2) above, school age child care learning centers shall provide at least one (1) toilet and (1) lavatory for each group of twenty-five (25) children on the premises.

(4) Ventilation. In centers first licensed after March 1, 1991, and centers that remodel or add to existing plumbing facilities, the bathroom area shall be fully enclosed and ventilated to the outside of the building with either an open screened window or functioning exhaust fan and duct system. Centers without fully enclosed bathrooms shall ensure that there is adequate ventilation to control odors and adequate sanitation measures to prevent the spread of contagious diseases.

(5) Fixtures. When child-size fixtures are not provided, platforms or sets of steps to assist children who are unable to use the fixtures comfortably shall be available at the toilets and lavatories. Toilet facilities for four (4)-year-old pre-kindergarten age children shall be suitably screened for privacy.

(6) Supplies. Bathrooms shall be within easy reach of children and equipped with soap, toilet tissue and single-use towels or cloth towels used only once between launderings.

(7) Cleanliness. Bathrooms shall be cleaned daily with a disinfectant.

Authority O.C.G.A. Secs. 20-1A-1 et seq., 49-5-22. **History.** Original Rule entitled "Bathroom" adopted. F. Dec. 23, 1997; eff. Mar. 1, 1998, as specified by the Agency. **Amended:** F. Jan. 12, 2005; eff. Feb. 1, 2005.

Rule 591-1-1-.08 Children's Records.

A center must maintain a file for each child, while such child is in care at the center and for a period of one (1) year after such child is no longer in care at the child care learning center. The file and it shall contain the following:

- (a) Identifying information about the child to include: name, date of birth, sex, address, living arrangement if not with both parents, and name of school, if any, and name of guardian if applicable.
- (b) Identifying information about the parents or guardian to include: names of both parents, guardian if applicable, home and work addresses, and home and work telephone numbers.
- (c) Name(s) and addresses of the person(s) to whom the child may be released. Such information shall contain the authorized person's address, telephone numbers, relationship to child and to parent(s) or guardian, and other identifying information.
- (d) Identifying information about the person(s) to contact in emergencies when the parent or guardian cannot be reached to include name(s) and telephone number(s).
- (e) Identifying information about the child's primary source of health care to include physician's or clinic's name and telephone number.
- (f) Statement regarding known allergies or other physical problems, mental health disorders, mental retardation or developmental disabilities which would limit the child's participation in the center's program and activities.
- (g) Evidence of age-appropriate immunizations or a signed affidavit against such immunizations.

The items shall be maintained for each child enrolled in the center on a form approved by the Department, and no child shall continue enrollment in the center for more than thirty (30) days without such evidence.

(h) Description of any special procedures to be followed in caring for the child, including any special services which the center agrees to provide to a child with special needs.

(i) Documentation of incidents requiring professional medical attention, other than simple first aid performed by center staff, to include: child's name, type of illness or injury, date of illness or injury, how injury or illness occurred, staff present, method of notifying parent or guardian and services provided to the child.

(j) Parental or guardian authorizations (see rule .23 for details).

(k) Parental or guardian acknowledgment of their responsibility for keeping center advised of any significant changes in enrollment information concerning phone numbers, work locations, emergency contact, family physicians, etc.

(l) Parental or guardian acknowledgment that when the parents, guardian, or persons authorized by the parents or guardian, pick up or drop off their child at the center, they will not allow their child to enter or leave the center without being escorted and that the center will not permit the child to enter or exit the center without an escort.

(m) Parental or guardian acknowledgment that where the school-age child care learning center does not agree to provide routine meals and/or snacks, as appropriate, for the children, the parents or guardian agree that they shall provide the children with nutritious

meals and snacks daily as appropriate.

(n) Confidentiality. Information pertaining to the children enrolled at a center is considered confidential and may not be released by center staff without first obtaining written permission signed by the parents or guardian except in the following situations. Relevant information relating to the children's family situations, medical status and behavioral characteristics on the children enrolled at the center at any time shall be shared by center staff among caregivers on the center caregiver staff, with members of the Department or with other persons authorized by these rules or the law to receive such information, or with other persons in an emergency situation involving the child.

(o) Attendance Records. A child's daily attendance records for the ~~six (6)~~ twelve (12) preceding months must be maintained but need not be filed in each child's record. These records shall be made available to the Department in printed or written form upon request.

(p) Arrival and Departure Records. Records of a child's daily arrival and departure for the twelve (12) preceding months shall be maintained but need not be filed in each child's record. The parent, guardian, or person(s) authorized by the parent or guardian to drop off and pick up the child will document, in written or electronic format, each time the parent, guardian or authorized person drops off and picks up the child. The center shall ensure that children are only released to authorized person(s), and center staff shall take necessary steps to determine that any such person(s) presenting to pick up a child in care is authorized by the parent(s) or guardian of the child and that person matches the identifying information provided by the parent or guardian.

1. The documentation shall include at least the following information: the date, the child's

name, the arrival and departure times, and the signature or initials of the parent, guardian or authorized person at the time of arrival and departure.

2. These records shall be made available to the Department in printed or written form upon request.

Authority O.C.G.A. Sec. 20-1A-1 et seq. **History.** Original Rule entitled "Children Records" adopted. F. Dec. 23, 1997; eff. Mar. 1, 1998, as specified by the Agency. **Amended:** F. Jan. 12, 2005; eff. Feb. 1, 2005.

Rule 591-1-1-.10 Diapering Area and Practices.

(1) Ventilation. For centers first licensed after March 1, 1991, and for centers that are renovated after March 1, 1991, the diapering areas shall be ventilated by functioning exhaust fans and a duct system or by the required operable windows.

(2) Lavatory. In centers first licensed after March 1, 1991, and centers that renovate existing plumbing facilities, a hand washing lavatory with running heated water shall be located adjacent to the diapering area. Flush sinks shall not be used for hand washing. Cleansing procedures in other facilities shall be approved by the Department.

(3) Changing Diapers. Diapers shall be changed in the child's own crib or on a diaper changing surface that is used for no purposes other than changing clothes in each room where infants or any other children wearing diapers are served.

(a) If diapers are changed on a diaper changing surface, the surface shall be smooth, nonporous, and equipped with a guard or rails to prevent falls. Between each diaper change, the diaper change surface shall be cleaned with a disinfectant and dried with a single-use disposable towel.

(b) Infants and children shall not be left unattended while being diapered or having their clothes changed on the diaper changing surface.

(c) Any items which might harm a child must be kept out of a child's reach.

(4) Supplies. The following items shall also be provided at the diapering area: liquid soap, individually dispensed, single-use hand towels, single-use wash cloths, and covered storage container for soiled items.

(5) Hygiene. Staff shall wash their hands with liquid soap and warm running water immediately before and after each diaper change they perform. Staff with diaper changing responsibilities shall not be simultaneously assigned to kitchen food preparation duties.

(6) Location of Diapering Area. The area used for diapering shall not be used for food preparation. It must be clear of formulas, food, food utensils and food preparation items.

(7) School-age Center. Except for children with special needs who are school-age but require diapering, the above rules do not apply to school-age centers.

Authority O.C.G.A Sec. 20-1A-1 et seq. **History.** Original Rule entitled "Diapering Areas and Practices" adopted. F. Dec. 23, 1997; eff. Mar. 1, 1998, as specified by the Agency. **Amended:** F. Jan. 12, 2005; eff. Feb. 1, 2005.

Rule 591-1-1-.12 Equipment and Toys.

(1) All indoor and outdoor furniture, activity materials, and equipment shall be used:

(a) In a safe and appropriate manner by each employee and child in attendance; and

(b) In accordance with the manufacturer's instructions, recommendations, and intended use.

~~(1)~~ (2) Equipment. All equipment and furniture shall be used only by the age-appropriate group of children. Equipment and furniture shall be: ~~free from hazardous conditions such as, but not limited to, sharp, rough edges or toxic paint and shall be kept clean. Equipment shall be placed so as to permit the children's freedom of movement and to minimize danger of accident and collision.~~

(a) Free from hazardous conditions such as, but not limited to, sharp rough edges or toxic paint;

(b) Kept clean;

(c) Placed so as to permit the children's freedom of movement and to minimize danger of accident and collision;

(d) Secured if equipment and furniture is of a weight or mass that could cause injury from tipping, falling, or being pulled or pushed over. Potentially unstable equipment and furniture that might injure a child if not secured include, but are not limited to, televisions, chests of drawers, bookcases, shelving, cabinets and fish tanks. Examples of items not required to be secured include, but are not limited to, child-sized tables and chairs, rocking chairs, and cribs.

~~(2)~~ (3) Toys. A variety of age-appropriate toys and play materials shall be available. They shall be stored on low, open shelves accessible to children in each room or assigned area. Toys that launch projectiles, such as dart guns, pop guns, slingshots, etc., shall not be allowed in the center, and balloons shall not be accessible to preschool children.

~~(3)~~ (4) Toys for Children Under Three. Toys for children under three (3) years of age shall also be age-appropriate. Those toys shall be:

(a) Non-toxic and lead-free;

(b) Too large to be swallowed by a child and not capable of causing asphyxiation or

strangulation;

(c) Free of sharp pieces, edges or points of small parts which may be pried off by a child;

(d) Free of rust;

(e) Easily cleaned with a disinfectant daily.

~~(4)~~ (5) Tables. There shall be table space provided for each child who is able to sit at a table unassisted. An appropriately sized chair or bench shall be provided for each child who is not an infant and who is able to use a chair or bench.

Authority O.C.G.A. Sec. 20-1A-1 et seq. **History.** Original Rule entitled "Equipment and Toys" adopted. F. Dec. 23, 1997; eff. Mar. 1, 1998, as specified by the Agency.

Rule 591-1-1-.17 Hygiene.

(1) Bathtubs and Showers. If used, bathtubs and showers shall be cleaned with a disinfectant after each use.

(2) Children's Hygiene. To the extent possible, personnel shall keep children clean, dry and comfortable.

(3) Children's Personal Items. Children's combs, toothbrushes and cloth towels shall be kept clean.

(4) Contagious Diseases. Staff, or any other persons being supervised by the staff, shall not be allowed in the center who knowingly have or present symptoms of a fever or diarrhea.

(5) Drinking Fountains and Cups. Drinking fountains, if available, shall be safe and kept clean, have regulated pressure, not be mounted on sinks used for diaper changing activities and have an angle jet with an orifice guard above the rim. Single-service drinking cups shall be provided when appropriate drinking fountains are not available, and cups shall be discarded after each use unless the cups are sanitized in a dishwasher between each use.

(6) Garbage. Garbage and organic waste shall be stored in containers that are lined with plastic liners and have tight-fitting covers. Trash and garbage shall be removed from the building daily or as often as necessary to maintain the premises in a clean condition.

(7) Handwashing, Children. Children's hands shall be washed with soap and running water prior to eating meals or snacks and after toileting. Washcloth handwashing is permitted for children under the age of two (2) years and for children with special needs who are not capable of washing their own hands. An individual washcloth used only one time between laundering shall be used for each child.

(8) Handwashing, Staff. Personnel shall wash their hands with soap and warm running water immediately before feeding each child, prior to eating, after eating, drinking, toileting, using tobacco products or being contaminated by other means. A copy of a hand washing chart, provided by the Department, shall be posted above or beside each lavatory used by adults.

(9) Laundry. If laundry is done on center premises, the laundry area shall be located outside the children's activity rooms or areas and not used as a passageway by children to travel from one area to another whenever any soiled or clean laundry is exposed.

(10) Potty Chairs. ~~After each use~~ If used, toilet potty chairs shall after each use be emptied by disposal in a flush toilet, ~~and cleaned with a disinfectant, and stored in the bathroom. If a sink is used, the sink shall also be disinfected.~~

(11) Soiled Containers and Items. Separate containers shall be used for storing soiled disposable items, such as disposable diapers and disposable washcloths and soiled non-disposable items such as cloth diapers, washcloths and bed linens. Such containers shall be waterproof or equipped with a leak proof disposable liner, covered, easily cleaned and maintained in such a manner so as the contents of the container are never accessible to the children.

(12) Wet Clothing. Children's wet or soiled clothing shall be stored in individual plastic bags after being rinsed thoroughly.

Authority O.C.G.A. Sec. 20-1A-1 et seq. **History.** Original Rule entitled "Hygiene" adopted. F. Dec. 23, 1997; eff. Mar. 1, 1998, as specified by the Agency. **Amended:** F. Jan. 12, 2005; eff. Feb. 1, 2005.

Rule 591-1-1-.18 Kitchen Operations.

(1) Food. Food shall be in sound condition, free from spoilage and contamination and safe for human consumption. Eggs, pork, pork products, poultry and fish shall be thoroughly cooked. All raw fruits and vegetables shall be washed thoroughly before being cooked or served. Foods not subject to further washing or cooking before serving shall be stored in such a manner as to be protected against contamination. Meats, poultry, fish, dairy products and processed foods shall have been inspected under an official regulatory program. Hot foods shall be maintained at a temperature of one hundred forty (140) degrees Fahrenheit or above except during serving. Food and drinks shall be prepared as close to serving time as possible to protect children and personnel from food-borne illness.

(2) Food Preparation Areas. Each center shall have a designated space for food preparation separate from rooms used by children and in an area not used for diaper-changing. The area shall be kept clean and free of accumulation of dust, dirt, food particles and grease deposits.

Ventilation shall be provided either by mechanical or natural means so as to provide fresh air and control of unpleasant odors in the food preparation area. Food preparation surface areas shall be nonporous with no unsealed cracks or seams. Kitchen lights shall be shielded.

(3) Refrigeration. All perishable and potentially hazardous foods shall be refrigerated at a temperature of ~~forty-five (45)~~ forty (40) degrees Fahrenheit or below and served promptly after cooking. Freezer temperature shall be maintained at zero (0) degrees Fahrenheit or below.

(4) Dishwashing. Non-disposable dishes, glasses and silverware shall be properly cleaned by

pre-rinsing, or scraping, washing, sanitizing and air drying. A three (3) compartment sink or a dishwasher with a sani-cycle or capability of maintaining a rinse water temperature of a minimum of one hundred fifty (150) degrees Fahrenheit and a two (2) compartment sink shall be available. Dishes, glasses and silverware shall be rinsed in the approved dishwasher or rinsed in a chemical sanitizer and air dried.

(5) Storage Areas. Each center shall have a designated space for storage of food and kitchen items. The area shall be kept clean and free of accumulation of dust, dirt, food particles and grease deposits. Containers of food shall be stored above the floor on clean surfaces protected from splash and other contamination. Containers for food storage other than the original container or package in which the food was obtained shall be impervious and non-absorbent, have tight-fitting lids or covers and labeled as to contents. Cleaning materials shall be stored separately from food.

(6) Garbage. Garbage shall be stored in trash containers with lids. Containers shall be emptied and cleaned as needed. Acceptable facilities, including water and detergent or steam, shall be provided and used for cleaning containers. Areas around outside containers shall be kept clean.

(7) Hygiene. Kitchen staff shall wash their hands and arms thoroughly with liquid soap and warm running water before starting food service work and shall wash hands during work hours as often as may be necessary to remove soil and contamination as well as after visiting the toilet room.

(8) Exclusion of Children. Children shall not be permitted in the kitchen except as part of a planned, supervised learning experience.

Authority O.C.G.A. Sec. 20-1A-1 et seq. **History.** Original Rule entitled "Kitchen Operations" adopted. F. Dec. 23, 1997; eff. Mar 1, 1998 as specified by the Agency.

Rule 591-1-1-.31 Staff.

(1) Director.

(a) A center must have a director who is responsible for the supervision, operation and maintenance of the center. The director must be on the center's premises. If the director is absent from the center at any time during the hours of the center's operation, there shall be an officially designated person on the center site to assume responsibility for the operation of the center, and this person shall have full access to all records required to be maintained under these rules.

(b) Qualifications of Director. The director must meet the ~~following~~ minimum qualifications listed below. (Note: The educational and qualifying child care experience requirements contained in 591-1-1-.31(b)2.(i) through (v) will remain in effect through November 30, 2012. These requirements will change effective December 1, 2012, and the new educational and qualifying experience requirements for directors are listed in 591-1-1-.31(1)(b)3.(i) through (xiii) below.);

1. Be at least twenty-one (21) years of age;
2. Possess at least one of the following sets of minimum academic requirements and qualifying child care experience at the time of employment:

(i) a ~~H~~high school diploma or general education diploma (G.E.D.) and one (1) year of qualifying child care experience;

(ii) a Child Development Associate (CDA) credential; ~~or~~ a Child Development and Related Care ~~d~~Diploma from a vocational institute accredited by the Commission on Colleges of the Southern

Association of Colleges and Schools; or similar credential where the course of study includes an intensive practicum in child care as part of the curriculum and which is approved by the Department;

(iii) ~~an~~ Associate's degree in Early Cehildhood Education or Child Development and six (6) months of qualifying child care experience;

(iv) a ~~B~~achelor's degree from an accredited college or university in a field other than Early Cehildhood Education or Cehild Development and three (3) months of qualifying ~~work~~ child care experience;

(v) a ~~B~~achelor's degree from an accredited college or university in Early Cehildhood Education or Cehild Development.

3. Effective December 1, 2012, the educational and qualifying child care experience requirements for directors, listed in 591-1-1-.31(1)(b)2.(i) through (v) above, will no longer be valid. Effective December 1, 2012, and thereafter, all directors must possess at least one of the following sets of minimum academic requirements and qualifying child care experience at the time of employment:

(i) Child Development Associate (CDA) credential issued by the Council for Professional Recognition; Child Development and Related Care diploma from a vocational institute accredited by the Commission on Colleges of the Southern Association of Colleges and Schools; or similar credential where the course of study includes an intensive practicum in child care as part of the curriculum and which is approved by the Department; and six (6) months of qualifying child care experience;

(ii) Technical Certificate of Credit (TCC) in Early Childhood Education or Child Development and six (6) months of qualifying child care experience;

(iii) Technical Certificate of Credit (TCC) in Infant and Toddler and six (6) months of qualifying child care experience;

(iv) Technical Certificate of Credit (TCC) in Program Administration and six (6) months of qualifying child care experience;

(v) Technical Certificate of Credit (TCC) in School Age and Youth Care and six (6) months of qualifying child care experience;

(vi) Technical College Diploma (TCD) in Early Childhood Education or Child Development and six (6) months of qualifying child care experience;

(vii) Forty-hour (40) director training course approved by the Department and has been employed for a minimum of five (5) years as an on-site child care learning center director or as an on-site group day care home administrator/director;

(viii) Associate's degree in Early Childhood Education or Child Development and six (6) months of qualifying child care experience;

(ix) Paraprofessional Certificate issued by the Georgia Professional Standards Commission and six (6) months of qualifying child care experience;

(x) Twenty-five (25) quarter hours or fifteen (15) semester hours from an accredited college or university in Early Childhood Education or Child Development and six (6) months of qualifying child care experience;

(xi) Bachelor's degree from an accredited college or university in a field other than Early Childhood Education or Child Development and three (3) months of qualifying child care experience;

(xii) Bachelor's degree from an accredited college or university in Early Childhood Education or Child Development;

(xiii) Master's degree from an accredited college or university in Early Childhood Education or Child Development;

~~3.~~ 4. Have current evidence of successful completion of a biennial training program in cardiopulmonary resuscitation (CPR) and a triennial training program in first aid provided by certified or licensed health care professionals and which covers the provision of emergency care to infants and children;

~~4.~~ 5. Participate in the orientation and training required by these rules;

~~5.~~ 6. Not be suffering from any physical handicap or mental health disorder that would interfere with the applicant's ability to perform adequately the job duties of providing for the care and supervision of the children enrolled in the center in accordance with these rules;

~~6.~~ 7. Never have been shown by credible evidence, e.g., a court or jury, a Department investigation or other reliable evidence to have abused, neglected or deprived a child or adult or to have subjected any person to serious injury as a result of intentional or grossly negligent misconduct. The Department may request an oral or written statement to this effect at the time of application or at any other time. Upon said request, the director/~~administrator~~ or staff shall provide this statement to the Department;

~~7.~~ 8. Not have a criminal record; and

~~8.~~ 9. Not have made any material false statements concerning qualifications requirements either to the Department or to the proposed or current licensees or commission holder.

(c) Required Records. Effective December 1, 2012, a copy and/or written verification of the credential or degree awarded to the director by the technical college, university, school or Department-approved trainer listed in 591-1-1-.31(1)(b)3.(i) through (xiii) shall be maintained by the center in the director's file, and such documentation shall be available for inspection and provided to Department staff upon request.

(2) Teacher/Lead Caregiver.

(a) A center must have a designated teacher/lead caregiver for each group of children.

(b) Qualifications of Teacher/Lead Caregiver. The teacher/lead caregiver must meet the minimum qualifications listed below. (Note: The educational and qualifying child care experience requirements contained in 591-1-1-.31(2)(b)2. will remain in effect through November 30, 2012. These requirements will change effective December 1, 2012, and the new educational and qualifying child care experience requirements for teachers/lead caregivers are listed in 591-1-1-.31(2)(b)3.(i) through (xii) below.):

1. Be at least eighteen (18) years of age;
2. Have either a high school diploma or a general education diploma (G.E.D.) or one (1) year's of qualifying child care experience if hired after the effective date of these rules;
3. Effective December 1, 2012, the qualifications listed in 591-1-1-.31(2)(b)2. above will no longer be valid. Effective December 1, 2012, and thereafter, all teachers/lead caregivers must possess at least one of the following sets of minimum academic requirements and qualifying experience at the time of employment:

(i) Child Development Associate (CDA) credential issued by the Council for Professional Recognition; Child Development and Related Care diploma from a vocational institute accredited by the Commission on Colleges of the Southern Association of Colleges and Schools;

or similar credential where the course of study includes an intensive practicum in child care as part of the curriculum and which is approved by the Department;

(ii) Technical Certificate of Credit (TCC) in Early Childhood Education or Child Development;

(iii) Technical Certificate of Credit (TCC) in Infant and Toddler;

(iv) Technical Certificate of Credit (TCC) in Program Administration;

(v) Technical Certificate of Credit (TCC) in School Age and Youth Care;

(vi) Technical College Diploma (TCD) in Early Childhood Education or Child Development;

(vii) Associate's degree in Early Childhood Education or Child Development (AA, AAS, AAT);

(viii) Paraprofessional Certificate issued by the Georgia Professional Standards Commission;

(ix) Twenty-five (25) quarter hours or fifteen (15) semester hours from an accredited college or university in Early Childhood Education or Child Development;

(x) Bachelor's degree from an accredited college or university in a field other than Early Childhood Education or Child Development and three (3) months of qualifying child care experience;

(xi) Bachelor's degree from an accredited college or university in Early Childhood Education or Child Development;

(xii) Master's degree from an accredited college or university in Early Childhood Education or Child Development.

~~3.~~ 4. Have current evidence of successful completion of a biennial training program in cardiopulmonary resuscitation (CPR) and a triennial training program in first aid provided by certified or licensed health care professionals and which covers the provision of emergency care to infants and children if the caregiver is to be counted as part of the fifty percent (50%) of the child care staff with the required current evidence of CPR and first aid training;

~~4.~~ 5. Participate in the orientation and training required by these rules;

~~5.~~ 6. Not be suffering from any physical handicap or mental health disorder that would interfere with the person's ability to perform assigned job duties adequately and in accordance with these rules;

~~6.~~ 7. Never have been shown by credible evidence, e.g., a court or jury, a Department investigation or other reliable evidence to have abused, neglected or deprived a child or adult or to have subjected any person to serious injury as a result of intentional or grossly negligent misconduct. The Department may request an oral or written statement to this effect at the time of application or at any other time. Upon said request, the teacher/lead caregiver or staff shall provide this statement to the Department.

~~7.~~ 8. Not have a criminal record; and

~~8.~~ 9. Not have made any material false statements concerning qualifications requirements either to the Department or to the proposed or current licensees or commission holder.

(c) Required Records. Effective December 1, 2012, a copy and/or written verification of the credential or degree awarded to the lead teacher by the technical college, university, school or Department-approved trainer listed in 591-1-1-.31(2)(b)3.(i) through (xii) shall be maintained by the center in the lead teacher's file, and such documentation shall be available for inspection and provided to Department staff upon request.

(3) Qualifications of Teacher/Lead Caregiver Hired After November 30, 2012.

(a) The teacher/lead caregiver must meet the minimum qualifications, educational and qualifying child care experience requirements contained in 591-1-1-.31(2)(b)1. through 9.:

(b) If the newly hired lead teacher does not possess one of the educational and qualifying child care experience requirements listed in 591-1-1-.31(2)(b)3.(i) through (xii), the center may hire this individual as lead teacher if the following requirements are met:

1. The lead teacher enrolls in a program of study to obtain one of the educational credentials and qualifying experience requirements listed in 591-1-1-.31(2)(b)3.(i) through (xii), within six (6) months after becoming employed at the center and completes the credential or degree within eighteen (18) months after enrollment;

2. The center prepares a written plan outlining the newly hired lead teacher's professional development in obtaining one of the credentials or degrees listed in 591-1-1-.31(2)(b)3.(i) through (xii). Such plan must include the following information:

(i) Individual's identifying information (name, address and telephone numbers);

(ii) Technical college, university or school where enrolled (name, address and telephone number) or Department-approved trainer providing credential coursework (name, address and telephone number);

(iii) Credential or degree individual is seeking;

(iv) Content area of credential or degree;

(v) Anticipated date for completion of credential or degree;

(vi) Names and numbers of courses to be completed during the current year and ongoing updates of the names and numbers of courses to be completed for the following year(s);

(vii) Documentation of course work successfully completed throughout process (i.e., completion of quarter, semester or component of course work); and

(viii) A copy of the credential or degree awarded by the technical college, university, school or Department-approved trainer for specified credential upon completion.

3. This professional development plan must be maintained in the lead teacher's file, and such plan shall be available for inspection and provided to Department staff upon request.

(34) Caregivers/Aides.

(a) A center may employ caregivers/aides to assist the teacher/lead caregiver in the care of children in any group within the center. No caregiver/aide who is 16 or 17 years of age shall be solely responsible for ~~a group of children~~.

(b) Qualifications of Caregivers/Aides.

1. Be at least sixteen (16) years of age;

2. Have current evidence of successful completion of a biennial training program in cardiopulmonary resuscitation (CPR) and a triennial training program in first aid ~~which have been offered~~ provided by certified or licensed health care professionals and which ~~dealt with~~ covers the provision of emergency care to infants and children if the caregiver is to be counted as part of the fifty percent (50%) of the child care staff with the required current evidence of CPR and first aid training;

3. Participate in the orientation and training required by these rules;

4. Not be suffering from any physical handicap or mental health disorder that would interfere with the person's ability to perform assigned job duties adequately and in accordance with these rules;

5. Never have been shown by credible evidence, e.g., a court or jury, a Department investigation or other reliable evidence to have abused, neglected or deprived a child or adult or to have subjected any person to serious injury as a result of intentional or grossly negligent misconduct. The Department may request an oral or written statement to this effect at the time of application or at any other time. Upon said request, the caregiver/aide or staff shall provide this statement to the Department.

6. Not have a criminal record; and

7. Not have made any material false statements concerning qualifications requirements either to the Department or to the proposed or current licensees or commission holder.

(45) Other Staff.

The center shall have qualified and sufficient direct-care, clerical, housekeeping and maintenance employees to ensure full compliance with these rules without neglecting the supervision of the children. Staff shall supervise all independent contractors, volunteers, chaperons and students in training whenever they are in the presence of the children.

(56) Substitute Employees.

The center shall provide for substitute staff when regular staff is absent from work. All substitute employees shall be at least eighteen (18) years of age. Substitute caregiver staff shall be informed of these rules and the center's policies and procedures for the age group for which they will be providing care. Substitute service staff shall be informed of the center's policies and procedures necessary to the proper performance of their job duties in compliance with these

rules. A substitute employee must have a satisfactory criminal records check determination and receive orientation training. If any substitute serves in any one (1) position longer than six (6) months, the substitute so employed must meet all staffing requirements for that position.

(67) Students in Training.

The center may employ students in training, meaning students enrolled in an educational course of study which requires or permits them to observe and participate in the care of children at a child care learning center during a limited period of time, i.e., one (1) quarter, one (1) trimester or one (1) semester. Such students must be under the direct supervision of center personnel at all times.

(8) Staff for School-Age Programs.

(a) Effective December 1, 2012, after school programs serving children ages five (5) years and older (school-age) that routinely operate a maximum of four (4) hours per day, Monday through Friday, whether the school-age program is the only licensed program at that location or operates a full day child care learning center, shall comply with the following:

(b) A school-age program must have at least one lead teacher/caregiver who is responsible for:

(i) Day-to-day programming and

(ii) Supervision of the assistant caregivers/aides assigned to each classroom or group of school-age children.

(c) If there is only one lead teacher/caregiver and more than one classroom or group of school-age children, the director of the school-age program shall assign an assistant caregiver/aide who is at least 18 years of age to each classroom or group of children.

(d) If there is a lead teacher/caregiver assigned to each classroom or group of children, the assistant caregiver/aide may be 16 or 17 years of age.

(79) Work Schedules.

Staff shall not regularly be scheduled to perform child care duties for more than twelve (12) hours within any twenty-four (24) hour period.

(810) First Aid and CPR.

At least fifty percent (50%) of the caregiver staff shall have current evidence of first aid training and cardiopulmonary resuscitation. There must always be an employee with current evidence of first aid training and CPR on the center premises whenever children are present and on any center-sponsored field trip.

(911) Compliance with Applicable Laws and Regulations.

Center staff shall comply with all applicable laws and regulations.

Authority O.C.G.A. Sec. 20-1A-1 et seq. **History.** Original Rule entitled "Staff " adopted. F. Dec. 23, 1997; eff. Mar. 1, 1998, as specified by the Agency. **Amended:** F. Jan. 12, 2005; eff. Feb. 1, 2005.

Rule 591-1-1-.38 Enforcement and Penalties.

No child care learning center shall operate in the state without a license. A license to operate a center may be denied, revoked, restricted or suspended in accordance with the following:

(a) **Refusal of a License.** The Department shall refuse to issue any license upon a showing of:

1. Noncompliance with these rules which are designated in writing to the center as being related to children's health and safety; or
2. Flagrant and continued operation of an unlicensed facility in contravention of the law; or
3. Prior license denial or revocation within one (1) year of application;

2. (b) Refusal of a License. The Department may refuse to issue a license upon a showing of:

1. The ~~where the~~ applicant or the agent of the applicant denies the representative access to the center for the purposes of determining whether a license will be granted; or
32. ~~The Department may refuse to issue a license where the~~ director or employees of the center do not undergo the applicable records check and receive satisfactory determinations; or
3. The applicant or agent of the applicant knowingly makes any false statement of material information in connection with the application for licensure, or in the alteration or falsification of records maintained by the applicant or the agent of the applicant in connection with the application for licensure; or
4. The applicant or alter ego of the applicant or agent of the applicant has transferred ownership or governing authority of a center within one (1) year of the date of the new application when such transfer was made in order to avert denial, suspension, or revocation of a license; or

5. The applicant or alter ego of the applicant or persons in management or control of the center have failed to pay a civil penalty or enforcement fine previously imposed by the Department.

~~(b)~~ (c) **Revocation of a License.** The Department may revoke any license in the following instances:

1. Where the Department's representative is refused access to the center for the purpose of determining whether the center is in compliance with these rules; or
2. Where the Department determines that a non-correctable deficiency exists in the operation or management of the center; or
3. Where the Department determines that a correctable abuse, dereliction or deficiency in the operation or management of the center has not been corrected within a reasonable time after:
 - (i) having been brought immediately to the attention of the director of the center by Department representative;
 - (ii) having been advised in writing of the deficiencies and setting a time not to exceed ten (10) working days for the filing of an acceptable plan of correction; and
 - (I) the licensee fails to submit an acceptable plan of correction to the Department within the specified time limits (in determining whether a plan of correction is acceptable, the Department will consider the extent of the deficiencies, the history of compliance including whether the licensee has sustained compliance with

previous plans of correction and whether the correction required can be maintained over time); or

(II) the licensee fails to follow the accepted plan of correction; or

4. Where the director or employees of a center do not undergo the applicable records checks and receive satisfactory determinations; or
5. Where there is a flagrant abuse, dereliction or deficiency that constitutes shocking intentional misconduct; or
6. Where the licensee knowingly makes any false statement of material information in connection with any statement made or on any documents submitted to the Department as part of an inspection, survey, or investigation, or in the alteration or falsification of records maintained by the licensee; or
7. Where the licensee fails to pay a civil penalty or enforcement fine imposed by the Department after the time period for requesting an appeal of the notice of imposition of civil penalty or enforcement fine has expired and the licensee has not submitted an appeal within required time frame in accordance with these rules and regulations; or
8. Where the licensee fails to pay a civil penalty or enforcement fine imposed by the Department after the licensee has submitted a timely appeal of the notice of imposition of civil penalty or enforcement fine and the imposition of the civil penalty or enforcement fine has been affirmed in accordance with the Georgia Administrative Procedure Act, O.C.G.A. Sec. 50-13-1 et seq., and applicable law.

~~(e)~~ (d) **Suspension of a License.** The Department may suspend the license to operate a center:

1. Where the director or employees of a center do not undergo the applicable records checks and receive satisfactory determinations; or
2. Where the Department finds that the public health, safety or welfare imperatively requires emergency action and incorporates a finding to that effect in its order summarily suspending the license pending proceedings for revocation or other action which proceedings shall be promptly instituted and determined.

~~(d)~~ **(e) Restriction of a License.** The Department may restrict or limit the holder of a regular, restricted or temporary license from providing certain kinds of care or services to children or limiting the number and/or age of the children who may be served if the Department determines that the holder of the license either cannot comply with these rules or has not complied with these rules.

~~(e)~~ ~~(f)~~ **Civil Penalties Enforcement Fines.** The Department may assess an enforcement fine of up to five hundred dollars (\$500) per day for each rule violation, not to exceed a total of twenty-five thousand dollars (\$25,000). The Department may assess ~~civil penalties~~ enforcement fines in accordance with the following:

1. A fine, not exceeding five hundred dollars (\$500) per day for each rule violation, may be assessed against any ~~person~~ licensee who
 - (i) Violates any licensing provision of O.C.G.A. Sec. ~~49-5-1 et seq.~~ 20-1A-1 et seq. or any rule, regulation or order issued under O.C.G.A. Sec. ~~49-5-1 et seq.~~ 20-1A-1 et seq. or any term, condition or limitation of any license, commission or registration certificate under O.C.G.A. Sec. ~~49-5-1 et seq.~~ 20-1A-1 et seq. thereby subjecting a child in care to injury or a life-threatening situation;

- (ii) Commits any violation for which a license or commission may be revoked.
- 2. If any violation is a continuing one, each day of such violation will constitute a separate violation for the purpose of computing the applicable ~~civil penalty~~ enforcement fine.
- 3. Whenever the Department proposes to subject a ~~person~~ licensee to the imposition of a ~~civil Penalty~~ an enforcement fine, it shall notify such ~~person~~ licensee in writing. The notice shall set forth the following:
 - (i) the date, facts and nature of each act or omission with which the ~~person~~ licensee is charged;
 - (ii) the specific and particular provisions of the Official Code of Georgia Annotated section, the rule, regulation, order, license or commission certificate involved in the violation;
 - (iii) each ~~penalty~~ fine which the Department proposes to impose and its amount;
 - (iv) that the ~~person~~ licensee has an opportunity to show in writing, within ten (10) days of the receipt of the notice, why such ~~penalty~~ fine should not be imposed;
 - (v) that the failure to pay the ~~civil penalty~~ enforcement fine, subsequently determined by the department, if any, may result in collection through a civil action (lawsuit);

- (vi) that the ~~person~~ licensee also has the right to appeal the imposition of the ~~civil penalty enforcement fine~~ pursuant to the Georgia Administrative Procedure Act, O.C.G.A. Sec. 50-13-1 ~~et seq.~~ et seq. by filing a timely request for a hearing within ten (10) days of receipt of the notice.
- 4. The written notice of the intention to impose a ~~civil penalty~~ an enforcement fine shall be sent by registered or certified mail by the Department to the last known address of such ~~person~~ licensee.
- 5. The amount of the ~~civil penalty enforcement fine~~ will be assessed in accordance with the following:
 - (i) a ~~penalty fine~~ of five hundred dollars (\$500) per day for each rule violation may be assessed for any violation of these rules which has resulted in a disabling or permanent injury or the death of a child;
 - (ii) a ~~penalty fine~~ ranging from three hundred ~~one~~ dollars (\$300~~1~~) to four hundred ninety-nine dollars (\$499) per day for each rule violation may be assessed for any violation of these rules which has resulted in an injury or harm to a child but has left no disabling or permanent physical damage;
 - (iii) a ~~penalty fine~~ ranging from fifty dollars (\$50) to two hundred ninety-nine dollars (\$299) per day for each rule violation may be assessed for any violation of these rules which demonstrates a reckless and serious disregard for the physical or mental health or safety of a child in care but which may or may not result in physical injury to a child or for any other violation of these rules for which a license may be revoked.
- 6. The Department will consider in assessing a ~~civil penalty~~ an enforcement fine the severity of the rule violation, the duration of non-compliance, the licensee's prior

licensure or history and the voluntary reporting of the violation for which the fine is being imposed on the licensee or the commission holder.

7. The assessment of ~~a civil penalty~~ an enforcement fine will not preclude the Department from taking any additional actions authorized by law or regulation including, but not limited to, license restriction, suspension, revocation or the seeking of an injunction against the continued operation of the center.

~~(f)~~ (g) Right to a Hearing. The Department's enforcement actions shall be preceded by a notice and opportunity for a hearing and shall constitute a contested case in accordance with the Georgia Administrative Procedure Act, O.C.G.A. § ~~50-13-1~~ et seq 50-13-1 et seq., except that only thirty (30) days' notice in writing from the Commissioner's designee shall be required prior to license or commission revocation and except that the hearing held relating to such action by the Department may be closed to the public if the hearing officer determines that an open hearing would be detrimental to the physical or mental health of any child who will testify at that hearing.

1. In connection with the Department instituting proceedings to revoke, suspend, refuse to renew or restrict a previously issued license or commission, the Department shall provide notice sent by certified mail setting forth the facts or conduct which has warranted the Department's action. The notice shall inform the center of the opportunity to demonstrate that the licensee was in full compliance with all lawful requirements for the retention of the license or commission at the time that the facts or conduct warranting the revocation, suspension or restriction action allegedly occurred. However, this notice shall not be required in the following instances:

- (i) The Department finds that the public health, safety, or welfare imperatively requires emergency action and incorporates a finding to that effect in its order, in which case summary suspension of the license or commission may be ordered pending proceedings for revocation or suspension or other action, which

proceeding shall be promptly instituted and determined; or

(ii) The Department's order is expressly required, by a judgment or a statute, to be made without the right to or hearing or continuance of any type.

2. The notice of revocation, suspension or restriction of a license or commission becomes effective thirty (30) days from the day of notice unless the licensee requests a hearing. A request for a hearing must be made in writing within ten (10) days of receipt of the notice of revocation, suspension or restriction.

(h) Notice of Hearing. If the licensee requests a hearing, a notice of hearing shall be mailed or served personally on the center. The notice shall contain the following:

1. A statement of the date, time, place and nature of the hearing;
2. A statement of the legal authority and jurisdiction under which the hearing is to be held;
3. A reference to the particular section of the statutes and rules involved;
4. A short and plain statement of the matters asserted. The Department may refer to any child that is the subject of a deficiency or violation in the notice by the child's initials. The name of the child so referenced will be released orally to the holder of the license, commission or registration upon written request to the Department. If the Department is unable to state the matters in detail at the time, the notice may be limited to a statement of the issues involved. Thereafter, upon application approved by the hearing officer, a more definite and detailed statement shall be furnished; and
5. A statement as to the right of any party to subpoena witnesses and documentary evidence through the Department.

~~(g)~~ **(i) Injunctive Relief.** The Department may, without regard to the availability of other remedies, including administrative remedies, seek an injunction against the continued operation of a center without a license or the continued operation of a center in willful violation of O.C.G.A. Sec. ~~49-5-1 et seq.~~ 20-1A-1 et seq. or of any regulation of the Department or in violation of any other order of the board or of the Department.

(j) Inspection Warrants. If a Department representative is denied entrance to a child care learning center which is believed to be subject to licensure, an application for an inspection warrant may be made by the Department to a court of competent jurisdiction and, if granted, used to gain entry to that child care learning center.

(k) Emergency Order. Notwithstanding other remedies available to the Department which may be pursued at the same time, the Commissioner or his/her designee may order the emergency placement of a monitor or monitors in a child care learning center in accordance with the following:

1. The Department's rules and regulations are being violated which threaten the health, safety, or welfare of children in care and when one or more of the following conditions are present:
 - (i) The child care learning center is operating without a license or commission; or
 - (ii) The Department has denied the license or commission or has initiated action to revoke the existing license or commission of the center; or
 - (iii) Children are suspected of being subjected to injury or life-threatening situations or the health or safety of a child or children is in danger.
2. A monitor may be placed in a child care learning center for no more than ten (10) consecutive calendar days, during which time the monitor shall observe conditions and

regulatory compliance with any recommended remedial action of the department. Upon expiration of the ten (10) day period, should conditions warrant, the initial ten (10) day period may be extended for an additional ten (10) day period. The monitor shall report to the Department. The monitor shall not assume any administrative responsibility within the center, nor shall the monitor be liable for any actions of the center. The salary and related costs and travel and subsistence allowance as defined by Department policy of placing a monitor in a child care learning center shall be reimbursed to the Department by the center, unless the order placing the monitor is determined to be invalid in a contested case or by final adjudication by a court of competent jurisdiction, in which event the costs associated with the monitor shall be paid by the Department.

3. The emergency order shall contain the following:

- (i) The scope of the order;
- (ii) The reasons for the issuance of the order;
- (iii) The effective date of the order if other than the date the order is issued;
- (iv) The person to whom questions regarding the order are to be addressed;
and
- (v) Notice of the right to a preliminary hearing.

4. Unless otherwise provided in the order, an emergency order shall become effective upon its service to the owner of the child care learning center or any other agent, employee, or person in charge of the center at the time of the service of the order.

5. The request for a preliminary hearing shall be made in writing within five (5) days from the time of service, excepting weekends. The request must be made to the

representative of the Department designated in the order. Unless a request is made to appear in person, the preliminary hearing shall consist of an administrative review of the record, written evidence submitted by the child care learning center affected, and a preliminary written argument in support of its contentions.

6. If a request is made to appear in person at the preliminary hearing, the child care learning center shall provide the name and address of the person or persons, if any, who will be representing the center in the preliminary hearing.
7. Upon receipt of a request for a preliminary hearing, the Department shall set and give notice of the date, time and location of the preliminary hearing. The preliminary hearing shall be held as soon as possible after a request therefore but in no event later than seventy-two (72) hours after such request, provided that a child care learning center may request that such hearing be held earlier; provided, however, that in no event will a hearing be held on a weekend or holiday.
8. If a personal appearance is requested, the preliminary hearing shall consist of a review of the evidence in the record, any additional evidence introduced at the hearing, and any arguments made. A recording shall be made of the hearing.
9. The Department shall, where practicable, issue an immediate oral order and shall, in all instances, issue a written order within four (4) business days after the close of the hearing.
10. Pending final appeal of the validity of any emergency order issued as provided for pursuant to O.C.G.A. Sec. 20-1A-13, such emergency order shall remain in full effect until vacated or rescinded by the Commissioner or his/her designee.
11. The Department is not precluded from taking any other actions permitted by other laws or regulations during the time that an emergency order is in force.

(l) **Criminal Penalties.** The criminal penalties which may be imposed for violation of these rules are as follows:

1. Any person who violates the provisions of O.C.G.A. Sec. 20-1A-1 et seq. or who hinders, obstructs, or otherwise interferes with any representative of the Department in the discharge of that person's official duties in making inspections or in investigating complaints shall be guilty of a misdemeanor.
2. Any person who shall make, utter, execute, or submit to the Department any oral or written representation, knowing the same to be false, for the purpose of obtaining anything of value, including any service, shall be guilty of a misdemeanor.
3. Any child care learning center which operates without a currently valid license or commission issued by the Department is subject to the provisions O.C.G.A. Sec. 20-1A-10(t) which provides upon conviction of operating a child care learning center without a license or commission, for a fine of not less than fifty dollars (\$50) nor more than two hundred dollars (\$200) for each offense. Each day of operation without a license or commission constitutes a separate criminal offense.

(m) **Complaints.** All complaints concerning licensed or commissioned or unlicensed child care learning centers may be submitted to the Department by telephone, letter, e-mail, facsimile, or personal conference. Complaints will be investigated by a Department representative, if appropriate. A written report of the findings of the investigation will be sent to the complainant upon request where authorized by law.

Authority O.C.G.A. Sec. 20-1A-1 et seq. **History.** Original Rule entitled "Enforcement and Penalties" adopted. F. Dec. 23, 1997; eff. Mar. 1, 1998, as specified by the Agency. **Amended:** F. Jan. 12, 2005; eff. Feb. 1, 2005.

**RULES OF
BRIGHT FROM THE START:
GEORGIA DEPARTMENT OF EARLY CARE AND LEARNING**

**CHAPTER 290-2-1
Group Day Care Homes**

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290-2-1-.06 Applications.

An application for a license or commission to operate a group day care home shall be submitted to the department on the forms provided by the department** *

(a) **Applicant Defined.** The individual completing the application for a license or commission shall be competent and at least eighteen (18) years of age** *

1. When the group day care home is owned by a sole proprietorship, the individual proprietor shall apply for the license or commission, complete the statement of responsibility and serve as the licensee or commission holder;** *

2. When the group day care home is owned by a partnership, the general partners shall apply for the license or commission, complete the statement of responsibility and serve as the license or commission holder;** *

3. When the group day care home is owned by an association, the governing body of the association shall authorize the application for the license or commission and complete the statement of responsibility and the association shall serve as the licensee or commission holder;** *

4. When the group day care home is owned by a corporation, the governing body of the corporation shall authorize the application for the license or commission and complete the statement of responsibility and the corporation shall serve as the licensee or commission holder** *

~~(b) Time for Filing. An application for a license or commission shall be submitted at least thirty (30) days prior to the proposed opening date of the new group day care home** *~~

(b) Application. Prior to submitting an application for a license or commission, an applicant shall attend an orientation of no more than 16 hours that has been approved by the Department. This orientation shall, at a minimum, provide instruction on the application process and give an overview of the Department's regulations that relate to the operation of group day care homes.

1. A current licensee applying for a group day care home license at another location is not required to attend another orientation within two years of the successful completion of a prior orientation that meets the above requirements.

2. An applicant applying for multiple group day care home licenses at one time is only required to attend one such orientation.

(c) Director's Training. Prior to the issuance of an initial license, the director of a group day care home responsible for its day-to-day operations shall have completed a 40-hour director's training course that has been approved by the Department. At a minimum, the subject matter taught at a director's training course shall cover the areas of administrator competencies that serve as a framework for professional development, which include, but are not limited to, early learning standards, business management, communication, developmentally appropriate practices, professional and leadership development, and advocacy for the center, parents, children and staff.

~~(e)~~(d) **Criminal Records Check Required.** The director and employees of a group day care home must submit to criminal records checks in connection with any application for a license or commission. ** *

1. **Preliminary Records Check.** Before a license or commission to operate a group day care home may be issued there shall be on file with the department:** *

(i) A satisfactory preliminary criminal records check determination on the administrator; and** *

(ii) A preliminary records check application for all employees. ** *

2. **Ongoing Requirements.** Before a person may become a director or an employee in a licensed or commissioned group day care home, the holder of the license or commission shall cause the person to be employed to submit a preliminary records check application to the department** *

(i) No person having an unsatisfactory determination as to his or her criminal record may be a director or employee of a licensed or commissioned group day care home. ** *

3. **Penalties.** A license or commission is subject to suspension or revocation and the department may refuse to issue a license or commission if a director or employee does not undergo the records checks applicable to that director or employee and receive a satisfactory determination. A director of a group day care home having an employee whom that director knows, or should reasonably know, to have a criminal record shall be guilty of a misdemeanor**

~~(d)~~(e) **Amended License or Commission.** If there is to be a change in the name of the program or group day care home, changes in the ages of the children to be served, an increase in the regular hours of operation such that the home would be providing evening or nighttime care in addition to daytime care, changes in the services provided, additions to or changes in the use of the building by the licensed or commissioned group day care home, an application for an

amended license or commission shall be submitted at least thirty (30) days prior to the change, except in the case of an emergency. If an emergency situation arises which makes it impossible to give thirty (30) days notice, the management of the home shall notify the department by telephone and shall submit an application for an amended license as soon as management becomes aware of the change that will be necessitated by the emergency situation** *

1. In no case, however, shall a new owner operate the group day care home without first securing a new license or commission from the department* * *

~~(e)~~(f) **Separate License or Commissions.** A separate license or commission application is required for each address or location at which a group day care home is proposed to be operated even when all of the proposed group day care homes are owned by the same person or entity. A separate license or commission is also required for each group day care home operated at a single location by different persons or entities. ** *

~~(f)~~(g) **Notice of Denial.** If the department determines that the applicant does not comply with these rules and determines that the issuance of a temporary or restricted license or commission is not appropriate, the department will provide a written notice of the denial of licensure or commission and the opportunity for a hearing to the applicant**

~~(g)~~(h) **False or Misleading Information.** The application for a license or commission, including the application for a criminal records check must be truthfully and fully completed. In the event that the department has reason to believe that the application has not been completed truthfully, the department may require additional verification of the facts alleged. The department may refuse to issue a license or commission where false statements have been made in connection with the application or any other documents required by the department. **
*

~~(h)~~(i) **Designation as Licensed or Commissioned.** No group day care home shall claim to be a licensed or commissioned group day care home unless it has been issued a current and valid

license or commission by the department. ** *

Authority O.C.G.A. Sec. 49-5-12 (1982 and 1982 Supp.); O.C.G.A. Secs. 49-5-3, 49-5-8, 49-5-60 et seq.; 20-1A-1 et seq. **Administrative History.** Original Rule entitled "Records" was filed on February 21, 1983; effective March 23, 1983, as specified by the Agency. **Repealed:** New Rule entitled "Applications" adopted. F. Apr. 1, 1991; eff. April 21, 1991.

290-2-1-.09 Administration and Staff Requirements.

If the holder of the license or commission is not an individual serving as the actual administrator or director of the group day care home, the holder of the license or commission shall appoint and identify to the ~~d~~Department in writing an administrator or director who shall be responsible for the day-to-day operation and management of the group day care home. ** *

(a) If the administrator/director is absent from the group day care home at any time during the hours of operation, there shall be an officially designated person on the group day care home site to assume responsibility for the operation of the group day care home who shall have full access to all records required to be maintained under these rules. ** *

(b) **Staffing Requirements for Administrator/Director.** The holder of license or commission issued after the effective date of these rules who serves as the administrator/director of the group day care home and the administrator/director of a group day care home hired after the effective date of these rules must meet the following minimum requirements throughout employment: **

*

1. Never have been shown by credible evidence, e.g. a court or jury, a ~~d~~Department investigation or other reliable evidence to have abused, neglected or deprived a child or adult or to have subjected any person to serious injury as a result of intentional or grossly negligent misconduct. The Department may request an oral or written statement to this effect at the time of application or at any other time. Upon said request, the administrator/director shall provide this statement to the Department; and ** *

2. Be at least twenty-one (21) years of age; and** *
3. Have current evidence of successful completion of a biennial training program in cardiopulmonary resuscitation (CPR) and a triennial training program in first aid ~~which have been offered~~ provided by certified or licensed health care professionals and which ~~dealt with~~ covers the provision of emergency care to infants and children if no other full-time staff member has such current evidence; and** *
4. Not be suffering from any physical or mental health disorder, ~~which~~ that would interfere with the applicant's ability to perform adequately the job duties of providing for the care and supervision of the children enrolled in the group day care home in accordance with these rules; and** *
5. Not have a criminal record; and** *
6. Participate in the orientation and training required by these rules; and** *
7. Not have made any material false statements concerning qualifications requirements either to the ~~d~~Department or to the proposed or current licensee or commission holder; and** *
8. Meet one of the following sets of minimum academic requirements and qualifying child care experiences at the time of employment. (Note: The educational qualifications contained in 290-2-1-.09(b)8. will remain in effect through November 30, 2012. These requirements will change effective December 1, 2012, and the new education and qualifying child care experiences for administrators/directors are listed in 290-2-1-.09(b)9.(i) through (xiii)).** *
 - (i) a High school diploma or general education diploma (G.E.D.), or** *
 - (ii) One year of qualifying child care experience as determined by the ~~d~~Department; and** *

9. Effective December 1, 2012, the qualifications listed in 290-2-1-.09(b)8. above will no longer be valid. Effective December 1, 2012, and thereafter, all administrators/directors must possess at least one of the following sets of minimum academic requirements and qualifying child care experience at the time of employment:

(i) Child Development Associate (CDA) credential issued by the Council for Professional Recognition; Child Development and Related Care diploma from a vocational institute accredited by the Commission on Colleges of the Southern Association of Colleges and Schools; or similar credential where the course of study includes an intensive practicum in child care as part of the curriculum and which is approved by the Department; and six (6) months of qualifying child care experience;

(ii) Technical Certificate of Credit (TCC) in Early Childhood Education or Child Development and six (6) months of qualifying child care experience;

(iii) Technical Certificate of Credit (TCC) in Infant and Toddler and six (6) months of qualifying child care experience;

(iv) Technical Certificate of Credit (TCC) in Program Administration and six (6) months of qualifying child care experience;

(v) Technical Certificate of Credit (TCC) in School Age and Youth Care and six (6) months of qualifying child care experience;

(vi) Technical College Diploma (TCD) in Early Childhood Education or Child Development and six (6) months of qualifying child care experience;

(vii) Forty-hour (40) director training course approved by the Department and has been employed for a minimum of five (5) years as an on-site group day care home administrator/director or as an on-site child care learning center director;

(viii) Associate's degree in Early Childhood Education or Child Development and six (6) months of qualifying child care experience;

(ix) Paraprofessional Certificate issued by the Georgia Professional Standards Commission and six (6) months of qualifying child care experience;

(x) Twenty-five (25) quarter hours or fifteen (15) semester hours from an accredited college or university in Early Childhood Education or Child Development and six (6) months of qualifying child care experience;

(xi) Bachelor's degree from an accredited college or university in a field other than Early Childhood Education or Child Development and three (3) months of qualifying child care experience;

(xii) Bachelor's degree from an accredited college or university in Early Childhood Education or Child Development;

(xiii) Master's degree from an accredited college or university in Early Childhood Education or Child Development;

10. Effective December 1, 2012, a copy and/or written verification of the credential or degree awarded to the administrator/director by the technical college, university, school or Department-approved trainer listed in 591-1-1-.31(1)(b)3.(i) through (xiii) shall be maintained by the group day care home in the administrator's or director's file, and such documentation shall be available for inspection and provided to Department staff upon request.

(c) Staffing Requirements for Additional Caregivers. To meet the staff: child ratios required by these rules, the administrator/director of the group day care home may employ additional caregivers who shall meet the following minimum requirements:** *

1. Never have been found by credible evidence, e.g. a court or jury, a ~~d~~Department investigation or other reliable evidence to have abused, neglected or deprived a child or adult or to have subjected any person to serious injury as a result of intentional or grossly negligent misconduct. The Department may request an oral or written statement to this effect at the time of application or at any other time. Upon said request, the caregiver or employee shall provide this statement to the Department; ~~and~~** *

2. Be at least eighteen (18) years of age; ~~and~~** *

3. Have current evidence of successful completion of a biennial training program in cardiopulmonary resuscitation (CPR) and a triennial training program in first aid ~~which have been offered~~ provided by certified or licensed health care professionals and which ~~dealt with~~ covers the provision of emergency care to infants and children if no other full-time staff member is present on the premises with the required training; ~~and~~** *

4. Not be suffering from any physical or mental handicap, ~~which~~ that would interfere with the person's ability to perform assigned job duties adequately and in accordance with these rules; ~~and~~** *

5. Not have a criminal record; ~~and~~**

6. Have either a high school diploma or general education diploma (GED) or three (3) months qualifying child care experience as determined by the ~~d~~Department if hired after the effective date of these rules; ~~and~~** *

7. Participate in the orientation and training required by these rules; ~~and~~** *

8. Not have made any material false statements concerning qualifications requirements either to the ~~d~~Department or to the licensee or commission holder or administrator.** *

(d) General Staffing Requirements. The group day care home shall have qualified and sufficient direct-care, clerical, housekeeping and maintenance employees to insure full compliance with these rules without neglecting the supervision of the children. Staff shall supervise all independent contractors, volunteers, chaperons and students in training whenever they are in the presence of children. The group day care home staffing policies shall comply with the following.** *

1. Contagious Diseases. Staff or persons residing in the home or any other person being supervised by the staff, shall not be allowed in the group day care home areas where children are being cared for who knowingly have, or present symptoms of a fever or diarrhea.** *

2. Smoking Limited. Staff or persons residing in the home or other persons shall not smoke or use tobacco except in designated enclosed rooms or areas which are totally separated from the child care areas either within group day care home premises, on the home's playgrounds or on any vehicle being used to transport children during the hours that the group day care home is in operation.** *

3. Use of Prohibited Substances. Staff, chaperons and students in training shall not be under the influence of or consume alcohol, marijuana or other controlled substances on the group day care home premises during the hours of operation or at any other time or place where there are children present for whom the group day care home staff is responsible.** *

4. Assignment of Employees. Staff with diaper changing responsibilities shall not be simultaneously assigned to kitchen food preparation duties.** *

5. Work Schedules. Staff shall not regularly be scheduled to perform child care duties for more than twelve (12) hours within any twenty-four (24) hour period.** *

6. Substitute Employees. The group day care home shall provide for substitute staff when regular staff is absent from work. All substitute employees shall be at least eighteen (18) years of

age. Substitute caregiver staff shall be informed of these rules and the group day care home's policies and procedures for the age group for which they will be providing care. Substitute service staff shall be informed of the group day care home's policies and procedures necessary to the proper performance of their job duties in compliance with these rules.** *

7. First Aid and CPR. There must always be an employee with current evidence of first aid training and cardiopulmonary resuscitation on the group day care home's premises and on any home-sponsored field trip.** *

(e) Staff Training. Prior to assignment to children or task, all employees hired after the effective date of these rules shall be oriented in accordance with these rules. Employees continuing to be employed with the group day care home after the effective date of these rules shall receive the on-going training set forth below in subsection 2.** *

1. Orientation. Orientation shall include instruction in:** *

(i) The group day care home's policies and procedures;** *

(ii) Emergency weather plans;** *

(iii) The employee's assigned duties and responsibilities;** *

(iv) Reporting requirements for suspected cases of child abuse, neglect or deprivation; communicable diseases and serious injuries;** *

(v) The rules and regulations set forth in Rule 290-2-2-.11, .12, .13, and .14. Such instruction shall require new staff to be generally familiar with the health and safety requirements for caring for the children that are set forth in the specified sections.** *

(vi) Childhood injury control;**

(vii) The administration of medicine;

(viii) Reducing the risk of Sudden Infant Death Syndrome (SIDS);

(ix) Hand washing;

(x) Fire safety;

(xi) Water safety;

(xii) Prevention of HIV/Aids and blood borne pathogens;

(xiii) Within the first year of employment, all employees hired after the effective date of these rules, who provide any direct care to the children, shall obtain ten (10) clock hours of training or instruction from an accredited school or ~~d~~Department-approved source in child care issues.

Custodial, and maintenance personnel or volunteers who provide no direct care to the children, do not have to meet this training requirement. At least six (6) of the clock hours must be divided as follows:**

(I) Four (4) clock hours of training in any of the following topics: disease control, cleanliness, basic hygiene, illness detection, illness disposition, childhood injury control or positive discipline techniques;**

(II) Two (2) clock hours of training in identifying, reporting and meeting the needs of abused, neglected or deprived children; and,**

(xiv) Within the first year of employment, the administrator and the person primarily responsible for food preparation hired after the effective date of these rules shall receive four (4) clock hours of training in food nutrition planning, preparation, serving, proper dish washing and food storage.

2. **Ongoing Training.** Within one (1) year of the effective date of these rules and thereafter on an annual basis, all supervisory and caregiver personnel (regardless of the date of hiring) shall attend ten (10) clock hours of training which is task focused in early childhood education or child development or subjects relating to job assignment and is offered by an accredited college, university or vocational program or other ~~d~~Department-approved source.**

3. **Documentation of Training.** Evidence of orientation and training shall be documented in the personnel file of each staff member, and such documentation ~~which~~ shall be available for inspection and provided to the Department staff for inspection upon request.** *

(f) **Grouping of Children and Staff: Child Ratios.** The group day care home must establish groupings of children for care which comply with the staffing ratios and requirements set forth below. Staff, such as the director or service workers (food, maintenance, and clerical, staff etc.), shall be counted in the staff: child ratio only during the time that they are giving full attention to the direct supervision of the children. Service staff routinely acting as child care workers shall meet the qualifications of the respective caregivers.** *

1. Employees shall be assigned so that, ~~in so far~~ insofar as possible, children receive care from the same employee each day;** *

2. Children shall be supervised at all times.** *

3. Unless otherwise provided in these rules the following staff: child ratios shall be maintained by the group day care home whenever it is open as of the date specified:** *

As of the effective date of these rules, the ratios shall be:

<u>Ages of Children</u>	<u>Staff: Child</u>	
Birth to 1 1/2 yrs.	1:7	*
1 1/2 yrs. through 2 1/2 yrs.	1:10	*
2 1/2 yrs. through school age	1:12	** *

As of November 1, 1991, the ratios shall be:

Ages of Children

Staff: Child

Infants less than one (1) year old or children under eighteen (18) months who are not walking	1:6	*
One (1) year olds who are walking	1:8	*
Two (2) year olds	1:10	*
Three (3) year olds	1:15	*
Four (4) year olds	1:18	*
Five (5) year olds	1:18	** *
Six (6) years and older	1:18	** *

4. In determining the staff: child ratios for mixed-age groupings:** *

(i) the age of the youngest child under three (3) years of age shall determine the staff: child ratio for the group in which the child(ren) under three (3) years of age are cared for;*

(ii) where all of the children in any one group are three (3) years and older, the age of the majority of the children in the group shall determine the staff: child ratios.** *

5. During day-time scheduled rest or sleeping periods, the staff: child ratio for any one group may be increased to 1:18 provided that all children in the specific group are over three (3) years of age and that:

(i) The required staff: child ratio is maintained for all other groups of children under three (3) years of age; and

(ii) ~~That~~ All staff required by Rule 290-2-1-.09(f)3. relating to staff: child ratios are in the group day care home and available to assure safe evacuation in an emergency.

6. Staff: child ratios as required in Rule 290-2-1-.09(f)3. shall be maintained during evening and nighttime care except when a majority of the children are sleeping when the ratios may be doubled in those areas where the children are sleeping. However, the staff required by the regular

staff: child ratios set forth in Rule 290-2-1.-09(f)3. must be available on the premises of the group day care home to resume supervision of the children whenever a majority of the children in care in an area are no longer asleep or an emergency situation arises.

(g) Staffing Requirements for Water-Related Activities. Whenever the group day care home chooses to allow the children to participate in water-related activities, such as swimming, fishing, boating or wading, the group day care home shall determine that the person supervising the children for water-related activities meet the following training requirements, whether or not these persons are employed by the group day care home. The group day care home shall also provide for the following special staff: child ratios during the water-related activity:** *

1. Staff and Training Requirements. There shall be a minimum of one (1) group day care home staff member on duty directly supervising the children at all times when one (1) or more children are engaged in water-related activities. Where the water is over two (2) feet deep, either the group day care home staff member or the employee provided by the water facility to supervise the use of the facility by children must have the following:** *

(i) current evidence of having completed successfully a training program in lifeguarding offered by a water-safety instructor certified by the American Red Cross or YMCA or YWCA or other recognized standard-setting agency for water safety instruction. However, this advanced life saving training is only required if the children will be in water that is over two (2) feet in depth; and** *

2. Staff: Child Ratios for Water-Related Activities. The group day care home shall also maintain the following staff: child ratios during any water-related activities:** *

(i) For water-related activities in water over two (2) feet in depth, the group day care home staff shall provide continuous supervision of the children in accordance with the following:

Ages of ChildrenStaff: Child Ratio

Under two and one-half (2 1/2) years	1:2	*
Two and one-half (2 1/2) to four (4) years	1:5	*
Four (4) years and older who cannot swim a distance of fifteen (15) yards unassisted	1:6	** *
Four (4) yrs. and older who can swim a distance of fifteen yards unassisted	1:15	** *

In lieu of requiring each child to take a swimming test to determine whether the child can swim a distance of fifteen (15) yards unassisted, group day care home staff may accept copies of certificates or cards from a recognized water safety instruction organization showing that the child has successfully completed a swimming class which required the child to swim a distance of fifteen (15) yards unassisted.

(ii) For water-related activities in water that is less than two (2) feet deep throughout, such as a self-contained wading pool less than two (2) feet in depth, continuous supervision must be provided by group day care home staff in accordance with the staff: child ratio set forth in Rule 290-2-1-.09(f).** *

(I) The wading pool shall be cleaned and filled with clean water for each day's usage and emptied when not in use.** *

(iii) At least one (1) additional staff member above the required staff: child ratio for water-related activities set forth in paragraphs (i) and (ii) shall be available to rotate among the groups as needed when any of the following circumstances are present:** *

(I) when the majority of the children in a group are not accustomed to, or are afraid of the water;
or** *

(II) the majority of the children in a group are comprised of children who cannot swim a distance of 15 yards unassisted, cannot touch the bottom of the water-facility without submerging their heads; or** *

(III) the water-facility is particularly crowded; or** *

(IV) the children have special needs which impact on their ability to participate safely in the water-related activity.

(h) Staffing Requirements for Transporting Children. Whenever the group day care home transports children for any reason, the driver of the vehicle shall be at least eighteen (18) years of age and possess a valid driver's license as required for the class of vehicle that the driver will be operating for the group day care home; and** *

1. Either the driver or another staff person present on the vehicle must have current evidence of successful completion of a biennial training program in cardiopulmonary resuscitation (CPR) and a triennial training program in first aid offered by certified or licensed health care professionals and which dealt with the provision of emergency care to infants and children; and** *

2. When transporting children, the group day care home shall provide:** *

(i) A minimum of two (2) staff members (the driver and non-driver) in the following situations:** *

(I) When three (3) or more children under three (3) years of age are transported; or*

(II) When seven (7) or more children under five (5) years of age occupy the vehicle; or*

(III) When eighteen (18) or more children five (5) years of age and older occupy the vehicle;
and** *

(ii) A third employee, who is at least eighteen (18) years of age, shall be provided in the vehicle when transporting children in the following situations:** *

(I) When more than eight (8) children under three (3) years of age occupy the vehicle.*

Authority O.C.G.A. Sec. 49-5-12 (1982 and 1982 Supp.); O.C.G.A. Sec. 20-2-711 (1982); O.C.G.A. Secs. 40-5-23, 40-5-146, 49-5-3, 49-5-8; and O.C.G.A. Sec. 20-1A-1 et seq.

Administrative History. Original Rule entitled "Health and Safety" was filed on February 21, 1983; effective March 23, 1983, as specified by the Agency. **Repealed:** New Rule entitled "Administration and Staff Requirements" adopted. F. Apr. 1, 1991; eff. Apr. 21, 1991.

290-2-1-.12 Physical Environment and Equipment.

A person planning the construction of a new group day care home or any structural changes to an existing group day care home shall obtain the following approvals and submit evidence of the same to the department:***

(a) **Required Approvals.** The group day care home shall be approved by the local zoning authority. ***

(b) The group day care home plans shall be approved prior to construction or renovation by:***

1. The appropriate fire marshal or state inspector, and** *
2. The local building official, and** *
3. The department.** *

(c) All water sources, if other than an approved city or county system, shall be approved by the proper authority having jurisdiction.** *

(d) In all new group day care homes, all sewage disposal systems, if other than an approved city or county system, shall be approved by the local county health department and specify the number of persons the system is approved to serve.** *

(e) The group day care home shall submit proof of compliance with applicable regulations of the state fire marshal, the proper local fire marshal or state inspector, including a certificate of occupancy if required, prior to receiving any children for care.** *

(f) **Physical Plant Requirements.** The following spaces shall not be used as activity areas for children:** *

1. Basement areas in excess of twenty-five (25) linear feet from a window; *
2. Rooms with floor levels lower than three (3) feet or more below ground level on all sides; and *
3. Any area unapproved for use by authorities having jurisdiction. * *

(g) Ceilings in the group day care home shall be at least seven (7) feet in height.** *

(h) The group day care home shall be:** *

1. Maintained at a temperature range of sixty-five (65) degrees Fahrenheit to eighty-five (85) degrees Fahrenheit depending upon the season;** *
2. Lighted with a minimum of twenty-five (25) foot candles of illumination except during scheduled nap or rest periods. Areas used for napping shall be lit dimly; and** *
3. Ventilated either by mechanical or natural means to provide fresh air and control unpleasant odors.** *

(i) The indoor area, i.e. the room(s) used for the play, rest and eating activities, shall provide

thirty-five (35) square feet of usable space per child:** *

1. Kitchens, bathrooms, closets, halls, storage areas or rooms, offices, rooms designated for staff use, other single use areas, and space occupied by adult size furniture shall be excluded in determining usable space. ** *

(j) Upon approval by the department, a holder of a license or commission may designate two (2) specific one (1) hour periods each day when only twenty-five (25) square feet of space per child is provided for children three (3) years of age and older in their assigned rooms or areas:** *

1. Interested licensees or commission holders shall submit a written request for such designation on forms provided by the department. ** *

(k) Child care rooms shall have outside windows which receive natural sunlight and equal not less than five percent (5%) of the floor area in each room, unless central heating and air conditioning are provided.*

1. Facilities which do not have a functioning central heating and air conditioning system shall make fifty percent (50%) of all required windows operable for ventilation. Any openings used for ventilation shall be screened. ** *
2. For group day care homes first licensed after the effective date of these rules and for group day care homes that are renovated after the effective date of these rules, diapering areas shall be ventilated by functioning exhaust fans and a duct system or by the required operable windows. *

(l) For evening and nighttime care, separate changing areas shall be provided for children of the opposite sex eight (8) years of age and older. ** *

(m) Toilets and lavatories which are accessible to the children shall be located on each floor, in

or adjacent to the child care areas or rooms. * * *

(n) Flush toilets and lavatories (hand washing sinks) with running water shall be provided in the following minimum ratios for the use of all children:***

1. Number of Children	Toilets and Lavatories
1 - 12	1
13 - 18	2

(i) ~~In addition to the toilets required above, one (1) toilet potty chair shall be provided for every five (5) or fewer children who are being potty-trained*~~ If used, toilet potty chairs shall after each use be emptied by disposal in a flush toilet, cleaned with a disinfectant, and stored in the bathroom. If a sink is used, it shall be disinfected after each use.

(o) When child-size fixtures are not provided, platforms or sets of steps to assist children who are unable to use the fixtures comfortably shall be available at the toilets and lavatories. *

(p) In group day care homes licensed after the effective date of these rules and in homes that remodel or add to existing plumbing facilities, the bathroom area shall be fully enclosed and ventilated to the outside of the building with either an open screened window or functioning exhaust fan and duct system. Homes without fully enclosed bathrooms shall ensure that there is adequate ventilation to control odors and adequate sanitation measures to prevent the spread of contagious diseases. *

(q) A copy of the hand washing chart, provided by the department, shall be posted above or beside each lavatory used by adults.*

(r) Diapers shall be changed in the child's own crib or on a diaper changing surface that is used for no other purposes other than changing clothes in each room where infants or any other children wearing diapers are served.*

1. The diaper changing surface shall be: *
 - (i) Smooth; *
 - (ii) Non-porous; and*
 - (iii) Equipped with a guard or rail to prevent falls. *

(s) The following items shall also be provided at the diapering area: *

1. Soap; *
2. Individually dispensed, single-use hand towels; *
3. Single-use wash cloths; and*
4. Covered storage container for soiled items. *

(t) In group day care homes first licensed after the effective date of these rules and group day care homes that renovate existing plumbing facilities, a hand washing lavatory with running heated water shall be located adjacent to the diapering area. Flush sinks shall not be used for hand washing. Cleansing procedures in existing facilities shall be approved by the department. *

(u) Staff shall wash their hands after each diaper change they perform. *

(v) Individual storage spaces which are accessible to children who are not infants shall be provided for each child's: **

1. Outer garments; and **
2. Personal belongings. **

(w) Locked or securely fastened storage spaces or cabinets shall be used for the storage of supplies, seasonal toys, decorations and other excess equipment. Children shall not be permitted access to these storage spaces or cabinets. * *

(x) The following shall be kept in a locked area out of the reach of children and separate from

food storage areas and used by the staff in such a way as to be inaccessible to the children.**

1. All potentially hazardous equipment, such as, but not limited to, lawn and garden tools, repair equipment, maintenance and cleaning equipment, and razors;**
2. Non-food related products under pressure in aerosol dispensing cans;*
3. Flammable materials and liquids;**
4. Corrosive materials;**
5. Cleaning supplies;**
6. Insecticides;**
7. Poisons;**
8. Office supplies; and**
9. Industrial-sized or commercial buckets with a capacity of three (3) gallons or more or any other similar device with rigid sides which would be unlikely to tip over if a toddler fell into the container head first.

(y) For group day care homes first licensed after the effective date of these rules, the group day care home shall provide or have ready access to an outdoor play area. The minimum size of the outdoor area must be equal to one hundred (100) square feet times the group day care home's licensed or commissioned capacity for children. ** *

1. At least one hundred (100) square feet shall be available for each child occupying the outside play area at any one time; ** *
2. Outside play areas shall be adjacent to the group day care home or in an area which can be reached by a safe route or method approved by the department;**
*
3. Play areas shall be protected from traffic or other hazards by a four (4) foot or higher secure fence or other barrier approved by the department;** *
 - (i) Fencing material shall not present a hazard to children, and shall be maintained so as to prevent children from leaving the play area by any

other means than through an approved access route; ** *

- (ii) Fence gates shall be kept closed except when persons are entering or exiting the area; ** *

4. The outdoor play space shall have a surface suitable for varied activities; *

- (i) Hard surfaces, such as gravel, concrete, or paving shall not exceed one fourth (1/4) of the total outdoor play area; *

5. Outside play areas shall be kept: ** *

- (i) Clean, ** *
- (ii) Free from litter, ** *
- (iii) Free of hazards such as, but not limited to non-resilient surfaces under the fall-zone of play equipment, rocks, exposed tree roots and exposed sharp edges of concrete or equipment; * * *

6. Shaded areas shall be provided in the outside play areas; *

7. All outside play equipment shall be arranged so as not to obstruct supervision of children; and ** *

8. Climbing and swinging equipment shall be: ** *

- (i) Anchored, and ** *
- (ii) Have a resilient surface beneath the equipment and the fall-zone from such equipment which is adequately maintained by the group day care home to assure continuing resiliency. ** *

(z) Any outside storage or equipment area shall be locked or separated from the children by a barrier or be enclosed and shall not be accessible to the children. ** *

(aa) Sufficient parking areas shall be provided to permit safe discharge and pick up of children. * * *

(bb) The group day care home shall provide outside lighting at entrances and exits used by children when the group day care home provides evening or nighttime care. ** *

(cc) **General Requirements.** All indoor and outdoor furniture, activity materials, and equipment shall be used in a safe and appropriate manner by each employee and child in attendance and in accordance with the manufacturer's instructions, recommendations, and intended use. All equipment and furniture shall be used only by the age-appropriate group of children and shall be: ** *

1. Free from hazardous conditions such as, but not limited to, sharp, rough edges or toxic paint;** *
2. In safe operating condition;** *
3. Placed so as to minimize danger of accident or collision;** *
4. Placed so as to permit the children's freedom of movement; ~~and~~** *
5. Kept clean; and** *
6. Secured if equipment and furniture is of a weight or mass that could cause injury from tipping, falling, or being pulled or pushed over. Potentially unstable equipment and furniture that might injure a child if not secured include, but are not limited to, televisions, chests of drawers, bookcases, shelving, cabinets and fish tanks. Examples of items not required to be secured include, but are not limited to, child-sized tables and chairs, rocking chairs, and cribs.

(dd) **Toys For Children Under Three.** All toys used by children less than three (3) years of age shall be appropriate for the age of the children using the toys. These toys shall be:

1. Easily cleaned;
2. Non-toxic and lead-free;
3. Too large to be swallowed by a child and not capable of causing asphyxiation or strangulation;
4. Have no sharp pieces, edges or points or small parts which may be pried off by a child;
5. Be free of rust; and
6. Cleaned with a disinfectant daily.

(ee) **Accessibility of Toys.** A variety of age-appropriate toys and play materials shall be stored on low open shelves accessible to children in each room or assigned area. Infants and children shall not be permitted to play with toys which are not designed for their particular age group or younger. Projectile launchers of any sort, such as dart guns, pop guns, and slingshots etc. shall not be allowed at the group day care home. Balloons shall not be accessible to preschool children.**

(ff) **Outdoor Equipment.** The outdoor play equipment shall provide an opportunity for the children to engage in a variety of experiences and shall be age-appropriate. For example, toddlers shall not be permitted to swing in swings designed for school-age children. The outdoor equipment shall be free of rust, lead-based paint, splinters and sharp comers and shall be regularly maintained in such a way as to be free of rust and splinters that could pose a significant safety hazard to the children. *

(gg) **Tables.** There shall be table space provided for each child who is able to sit at a table unassisted. *

1. An appropriately-sized chair or bench shall be provided for each child who is not an infant and who is able to use a chair or bench.*

(hh) **Feeding Chairs.** A feeding chair or similar equipment designed for feeding children shall be provided for the use of each child being fed who is capable of sitting up but who is unable to sit unassisted at a table.*

1. High chairs or similar equipment shall have: *
 - (i) A broad base to prevent tipping;*
 - (ii) A surface that the child cannot raise; *
 - (iii) A strap or other device to prevent the child from sliding out of the chair; and*
 - (iv) A feeding surface, free of cracks. *

(ii) Cleaning of Tables and Feeding Chairs. After each use, table tops and high chairs or similar equipment shall be cleaned with a disinfectant.*

(jj) Sleeping Equipment. Individual sleeping equipment shall be available for each child.*

1. A crib with a mattress shall be available for each infant. *
 - (i) Cribs shall be of sturdy construction with bars no more than two and three-eighths (2 and 3/8) inches apart. *
 - (ii) Stack cribs shall not be used.*
 - (iii) If crib mobiles or other mobiles are used in the group day care home, the mobiles shall be placed or installed in such a manner so as to be incapable of being touched by any infant or child.*
 - (iv) Each crib mattress shall be at least two (2) inches thick and covered with a waterproof, washable material. *
 - (v) Locks and latches on the drop-side of the crib shall be safe and secure from accidental release.*
 - (vi) Crib sides shall always be up and the fastenings secured when a child is in the crib, except when personnel are standing at the side of the crib giving the child personal attention.
 - (vii) There shall be no restraining devices of any type used in the crib unless prescribed in writing by a physician. Staff shall be responsible for using the restraints safely and in accordance with the prescription.
 - (viii) Loose plastic materials shall not be used in cribs.
 - (ix) Each crib shall have individual crib-size bedding, including a sheet and a cover which is:
 - (I) Changed daily or more often if necessary; and
 - (II) Changed prior to a change of occupant.
 - (x) Before a change of occupant, each crib and mattress shall be cleaned with a disinfectant.
2. Depending on the developmental stage of the one (1) year old child, a crib or

playpen or mat or cot shall be available for resting or sleeping. A crib shall not be used with an infant who has learned how to climb out of a crib. *

- (i) Playpens shall have a two (2) inch mat.*
 - (ii) Playpens shall be stored outside of children's activity room or area when children are not napping or resting.*
3. A cot or mat shall be available for each child who is two (2) years or older who is required to take a nap. *
- (i) Cots and mats, if stored in the children's activity room or area, shall be arranged so as to:*
 - (I) Prevent children's access to them; and*
 - (II) Allow maximum use of play space.*
 - (ii) Mats shall be:*
 - (I) Covered with waterproof material;*
 - (II) Washable; and*
 - (III) At least two (2) inches thick. *
4. For nighttime care, each child, except infants who require individual cribs, shall be provided an individual: *
- (i) Bed with a four (4) inch mattress; or*
 - (ii) Cot with a two (2) inch pad.*
5. Sleeping and resting equipment shall be:*
- (i) Of sound construction;*
 - (ii) Of sufficient size to accommodate comfortably the size and weight of the child;*
 - (iii) Marked for individual use and used by the same child daily; and*
 - (iv) Kept clean. *
6. Sleeping equipment shall be covered with a clean sheet or similar covering.*
- (i) Sheets shall either be individually marked or laundered daily; and*
 - (ii) Individually marked sheets shall be laundered weekly; or more frequently as needed.*
7. A light weight cover shall be available for each child's use.*

- (i) Covers shall either be individually marked or laundered daily; and*
 - (ii) Individually marked covers shall be laundered weekly, or more frequently as needed.*
- 8. Pillows shall not be used by children under two (2) years of age. *
 - (i) When used for older children, pillows shall be:*
 - (I) Assigned for individual use; and*
 - (II) Covered with individually marked pillow cases or covered with cases that are laundered daily; and *
 - (III) Individually marked pillow cases shall be laundered weekly, or more frequently as needed.*

Authority O.C.G.A. Sec. 49-5-12 (1982 and 1982 Supp); O.C.G.A. Sec. 49-5-14 (1982 Supp); O.C.G.A. Sec. 49-5-8-; 20-1A-1 et seq. **Administrative History.** Original Rule entitled "Fire Safety Requirements" was filed on February 21, 1983; effective March 23, 1983, as specified by the Agency. **Repealed:** New Rule entitled "Physical Environment and Equipment" adopted. F. Apr. 1, 1991; eff. Apr. 21, 1991.

290-2-1-.16 Enforcement and Penalties.

No group day care home shall operate in the State without a license or commission unless the Department determines that it is exempt from licensure or commission requirements. A license or commission to operate a group day care home may be denied, revoked, restricted or suspended in accordance with the following:**

(a) **Refusal of a License or Commission.** The Department shall refuse to issue a license or commission upon a showing of:**

1. Noncompliance with the Rules and Regulations for Group Day Care Homes which are designated in writing to the facilities as being related to children's health and safety;
2. Flagrant and continued operation of an unlicensed or noncommissioned group day care home in contravention of the law; or

3. Pprior license or commission denial or revocation within one (1) year of application;
or,**

~~2.~~ (b) **Refusal of a License or Commission.** ~~T~~he ~~D~~epartment may refuse to issue a license or commission upon a showing of:

1. The ~~where the~~ applicant, or the agent of the applicant, denies the ~~D~~epartment's representative access to the group day care home for the purposes of determining whether a license or commission will be granted; or,**
32. ~~The department may refuse to issue a license or commission where the~~ director or employees of the group day care home do not undergo the applicable records check and receive satisfactory determinations;
or,**
3. The applicant, or the agent of the applicant, knowingly makes any false statement of material information in connection with the application for licensure, or in the alteration or falsification of records maintained by the applicant or the agent of the applicant in connection with the application for licensure; or
4. The applicant or alter ego of the applicant or the agent of the applicant has transferred ownership or governing authority of a group day care home or a child care learning center within one (1) year of the date of the new application when such transfer was made in order to avert denial, suspension, or revocation of a license or commission; or
5. The applicant or alter ego of the applicant or persons in management or control of the group day care home have failed to pay a civil penalty or enforcement fine previously imposed by the Department.

(b) (c) **Revocation of a License or Commission.** The ~~D~~epartment may revoke a license or commission in the following instances:**

1. Wwhere the Ddepartment's representative is refused access to the group day care home for the purpose of determining whether the group day care home is in compliance with these rules; or,**
2. Wwhere the Ddepartment determines that a non-correctable deficiency, abuse or dereliction exists in the operation or management of the group day care home; or,**
3. Wwhere the Ddepartment determines that a correctable abuse, dereliction or deficiency in the operation or management of the group day care home has not been corrected within a time after:**
 - (i) having been brought immediately to the attention of the administrator of the group day care home by a Ddepartment representative; and,**
 - (ii) having been advised in writing of the deficiencies and setting a time not to exceed ten (10) working days for the filing of an acceptable plan of correction; and,**
 - (iii) the licensee or commission holder fails to submit an acceptable plan of correction to the Ddepartment within the specified time limits. In determining whether a plan of correction is acceptable, the Ddepartment will consider the extent of the deficiencies, whether the licensee or commission holder has previously been cited for the same deficiencies, the history of compliance including whether the licensee or commission holder has complied with previous plans of correction, and whether the correction required can be maintained over time; or,**
4. Tthe licensee or commission holder fails to follow the accepted plan of correction; or,**
5. Wwhere the director or employees of a group day care home do not undergo the applicable records checks and receive satisfactory determinations; or,**
6. Wwhere there is a flagrant abuse, dereliction or deficiency that constitutes shocking

intentional misconduct; or**

7. Where the licensee knowingly makes any false statement of material information in connection with any statement made or on any documents submitted to the Department as part of an inspection, survey, or investigation, or in the alteration or falsification of records maintained by the licensee; or
8. Where the licensee fails to pay a civil penalty or enforcement fine imposed by the Department after the time period for requesting an appeal of the notice of imposition of civil penalty or enforcement fine has expired and the licensee has not submitted an appeal within required time frame in accordance with these rules and regulations; or
9. Where the licensee fails to pay a civil penalty or enforcement fine imposed by the Department after the licensee has submitted a timely appeal of the notice of imposition of civil penalty or enforcement fine and the imposition of the civil penalty or enforcement fine has been affirmed in accordance with the Georgia Administrative Procedure Act, O.C.G.A. Sec. 50-13-1 et seq., and applicable law.

(e) (d) **Suspension of a License or Commission.** The Department may suspend the license or commission to operate a group day care home in the following instances:**

1. Where the director or employees of a group day care home do not undergo the applicable records checks and receive satisfactory determinations, or**
2. Where the Department finds that the public health, safety or welfare imperatively requires emergency action and incorporates a finding to this effect in its order summarily suspending the license pending proceedings for revocation or other action, which proceedings shall be promptly instituted and determined.**

(d) (e) **Restriction of a License or Commission.** The Department may restrict or limit a

regular, restricted or temporary licensee or commission holder from providing certain kinds of care or services to children or limiting the number and/or age of the children who may be served if the Ddepartment determines that the licensee or commission holder either cannot comply with these rules or has not complied with these rules.**

(e) (f) **Emergency Order.** Notwithstanding other remedies available to the Ddepartment which may be pursued at the same time, the Commissioner or his/her designee may order the emergency placement of a monitor or monitors in a group day care home in accordance with the following:**

1. The Ddepartment's rules and regulations are being violated which threaten the health, safety, or welfare of children in care and when one or more of the following conditions are present:**
 - (i) The group day care home is operating without a license or commission; or,**
 - (ii) The Ddepartment has denied the application for the license or commission or has initiated action to revoke the existing license or commission of the group day care home; or, **
 - (iii) Children are suspected of being subjected to injury or life-threatening situations or the health or safety of a child or children is in danger.**
2. A monitor may be placed in a group day care home for no more than ten (10) consecutive calendar days, during which time the monitor shall observe conditions and regulatory compliance with any recommended remedial action of the Ddepartment. Upon expiration of the ten (10) day period, should conditions warrant, the initial ten (10) day period may be extended for an additional ten (10) day period. The monitor shall report to the Ddepartment. The monitor shall not assume any administrative responsibility within the group day care home, nor shall the monitor be liable for any actions of the group day care

home. The salary and related costs and travel and subsistence allowance as defined by Ddepartment policy of placing a monitor in a group day care home shall be reimbursed to the Ddepartment by the group day care home, unless the order placing the monitor is determined to be invalid in a contested case or by final adjudication by a court of competent jurisdiction, in which event the costs associated with the monitor shall be paid by the Ddepartment.**

3. The emergency order shall contain the following:**
 - (i) The scope of the order;**
 - (ii) The reasons for the issuance of the order;**
 - (iii) The effective date of the order if other than the date the order is issued;**
 - (iv) The person to whom questions regarding the order are to be addressed; and**
 - (v) Notice of the right to a preliminary hearing.**
4. Unless otherwise provided in the order, an emergency order shall become effective upon its service to the owner of the group day care home, the director of the group day care home, or any other agent, employee, or person in charge of the group day care home at the time of the service of the order.**
5. The request for a preliminary hearing shall be made in writing within five (5) days from the time of service, excepting weekends. The request must be made to the representative of the Ddepartment designated in the order. Unless a request is made to appear in person, the preliminary hearing shall consist of an administrative review of the record, written evidence submitted by the group day care home affected, and a preliminary written argument in support of its contentions.**

6. If a request is made to appear in person at the preliminary hearing, the group day care home shall provide the name and address of the person or persons, if any, who will be representing the group day care home in the preliminary hearing.**
7. Upon receipt of a request for a preliminary hearing, the Ddepartment shall set and give notice of the date, time and location of the preliminary hearing. The preliminary hearing shall be held as soon as possible after a request therefor but in no event later than seventy-two (72) hours after such request, provided that a group day care home may request that such hearing be held earlier; provided, however, that in no event will a hearing be held on a weekend or holiday.**
8. If a personal appearance is requested, the preliminary hearing shall consist of a review of the evidence in the record, any additional evidence introduced at the hearing, and any arguments made. A recording shall be made of the hearing.**
9. The Ddepartment shall, where practicable, issue an immediate oral order and shall, in all instances, issue a written order within four (4) business days after the close of the hearing.**
10. Pending final appeal of the validity of any emergency order issued as provided for pursuant to O.C.G.A. Sec. 20-1A-13 ~~49-5-90 et seq.~~, such emergency order shall remain in full effect until vacated or rescinded by the Commissioner or his/her designee.**
11. The Ddepartment is not precluded from taking any other actions permitted by other laws or regulations during the time that an emergency order is in force.**

~~(f)~~ (g) **Right to a Hearing.** The department's action revoking or refusing to renew or issue a license or commission required pursuant to O.C.G.A. Sec. 20-1A-1 et seq. ~~49-5-12~~ or any other adverse action, such as the imposition of an enforcement fine, the restriction or suspension of a license or commission, shall be preceded by notice and opportunity for a hearing and shall

constitute a contested case within the meaning of the "Georgia Administrative Procedure Act", O.C.G.A. Sec. 50-13-1 et seq., ~~et seq.~~ except that only thirty (30) days' notice in writing from the Commissioner's designee shall be required prior to license or commission revocation and except that the hearing held relating to such action by the Department may be closed to the public if the hearing officer determines that an open hearing would be detrimental to the physical or mental health of any child who will testify at that hearing.**

1. In connection with the Department instituting proceedings to revoke, suspend, refuse to renew or restrict a previously issued license or commission, the Department shall provide notice sent by certified mail setting forth the facts or conduct which has warranted the Department's action. The notice shall inform the licensee or commission holder of the opportunity to demonstrate that the licensee or commission holder was in full compliance with all lawful requirements for the retention of the license or commission at the time that the facts or conduct warranting the revocation, suspension or restriction action allegedly occurred. However, this notice shall not be required in the following instances:**
 - (i) The Department finds that the public health, safety, or welfare imperatively requires emergency action and incorporates a finding to that effect in its order, in which case summary suspension of the license may be ordered pending proceedings for revocation or suspension or other action, which proceeding shall be promptly instituted and determined; or**
 - (ii) The Department's order is expressly required, by a judgment or a statute, to be made without the right to or hearing or continuance of any type.**
2. The notice of revocation, suspension or restriction of a license or commission becomes effective thirty (30) days from the day of notice unless the licensee or commission holder requests a hearing. A request for a hearing must be made in writing within ten (10) days of receipt of the notice of revocation, suspension or restriction.**

~~(g)~~ **(h) Notice of Hearing.** If the licensee or commission holder requests a hearing, a notice of hearing shall be mailed or served personally on the licensee or commission holder. The notice shall contain the following:**

1. Aa statement of the date, time, place and nature of the hearing;**
2. Aa statement of the legal authority and jurisdiction under which the hearing is to be held;**
3. Aa reference to the particular section of the statutes and rules involved;**
4. Aa short and plain statement of the matters asserted. The Ddepartment may refer to any child that is the subject of a deficiency or violation in the notice by the child's initials. The name of the child so referenced will be released orally to the holder of the license or commission upon written request to the Ddepartment. If the Ddepartment is unable to state the matters in detail at the time, the notice may be limited to a statement of the issues involved. Thereafter, upon application approved by the hearing officer, a more definite and detailed statement shall be furnished; and**
5. Aa statement as to the right of any party to subpoena witnesses and documentary evidence through the Ddepartment.**

~~(h)~~ **(i) Inspection Warrants.** If a Ddepartment representative is denied entrance to a group day care home which is believed to be subject to licensure, an application for an inspection warrant may be made by the Ddepartment to a court of competent jurisdiction and, if granted, used to gain entry to that group day care home.**

~~(i)~~ **(j) Injunctive Relief.** The Ddepartment, may without regard to the availability of other remedies, including administrative remedies, seek an injunction against the continued operation of a group day care home without a license or commission or the continued operation of a group

day care home in willful violation of O.C.G.A. Sec. 20-1A-1 et seq. ~~49-5-1 et seq.~~ or of any regulation of the Ddepartment or in violation of any other order of the board or of the Ddepartment.**

~~(j)~~ **(k) Criminal Penalties.** The criminal penalties which may be imposed for violation of these rules are as follows:**

1. Any person who violates the provisions of O.C.G.A. Sec. 20-1A-1 et seq. ~~49-5-12~~ or who hinders, obstructs, or otherwise interferes with any representative of the Ddepartment in the discharge of that person's official duties in making inspections or in investigating complaints shall be guilty of a misdemeanor.**
2. Any person who shall make, utter, execute, or submit to the Ddepartment any oral or written representation, knowing the same to be false, for the purpose of obtaining anything of value, including any service, shall be guilty of a misdemeanor.**
3. Any group day care home which operates without a currently valid license or commission issued by the Ddepartment is subject to the provisions O.C.G.A. Sec. 20-1A-10(t) ~~49-5-12(p)~~ which provides upon conviction of operating a group day care home without a license or commission, for a fine of not less than fifty dollars (\$50) nor more than two hundred dollars (\$200) for each offense. Each day of operation without a license or commission constitutes a separate criminal offense.**

~~(k)~~ **(l) Civil Penalties Enforcement Fines.** The Department may assess an enforcement fine of up to five hundred dollars (\$500) per day for each rule violation, not to exceed a total of twenty-five thousand dollars (\$25,000). The Ddepartment may assess ~~civil penalties~~ enforcement fines in accordance with the following:**

1. A fine, not exceeding five hundred dollars (\$500) per day for each rule violation, may be assessed by the Ddepartment against any ~~person~~ licensee who:**

- (i) ~~V~~violates any licensing or commissioning provision of O.C.G.A. Sec. 20-1A-1 et seq. 49-5-1 et seq. or any rule, regulation, or order issued under O.C.G.A. Sec. 20-1A-1 et seq. 49-5-1 et seq. or any term, condition, or limitation of any license or commission or certificate of registration under O.C.G.A. Sec. 20-1A-1 et seq. 49-5-1 et seq. thereby subjecting a child in care to injury or a life-threatening situation; or,**
 - (ii) ~~C~~ommits any violation for which a license or commission may be revoked.**
- 2. If any violation is a continuing one, each day of such violation will constitute a separate violation for the purpose of computing the applicable enforcement fine ~~civil penalty~~.**
- 3. Whenever the ~~D~~epartment proposes to subject a ~~person~~ licensee to the imposition of an enforcement fine ~~civil penalty~~, it shall notify such ~~person~~ licensee in writing. The notice shall set forth the following:**
 - (i) ~~T~~he date, facts, and nature of each act or omission with which the ~~person~~ licensee is charged;**
 - (ii) ~~T~~he specific and particular provisions of the Official Code of Georgia Annotated section, the rule, regulation, order, license or commission, involved in the violation;**
 - (iii) ~~E~~ach ~~penalty~~ fine which the ~~D~~epartment proposes to impose and its amount;**
 - (iv) ~~T~~hat the ~~person~~ licensee has an opportunity to show in writing, within ten (10) days of the receipt of the notice, why such ~~penalty~~ fine should not be imposed;**

- (v) ~~T~~that the failure to pay the ~~civil~~ penalty enforcement fine, subsequently determined by the ~~D~~eartment, if any, may result in collection through a civil action (lawsuit); and**
 - (vi) ~~T~~that the ~~person~~ licensee also has the right to appeal the imposition of the ~~civil~~ penalty enforcement fine pursuant to the Georgia Administrative Procedure Act, O.C.G.A. Sec. 50-13-1 et seq., ~~et seq.~~ by filing a timely request for a hearing within ten (10) days of receipt of the notice.**
4. The written notice of the intention to impose an civil penalty enforcement fine shall be sent by registered or certified mail by the ~~D~~eartment to the last known address of such ~~person~~ licensee.**
 5. The amount of the ~~civil~~ penalty enforcement fine will be assessed in accordance with the following:**
 - (i) ~~a penalty~~ A fine of five hundred dollars (\$500) per day for each rule violation may be assessed for any violation of these rules which has resulted in a disabling or permanent injury or the death of a child;**
 - (ii) ~~a penalty~~ A fine ranging from three hundred ~~one~~ dollars (\$300~~1~~) to four hundred ninety-nine dollars (\$499) per day for each rule violation may be assessed for any violation of these rules which has resulted in an injury or harm to a child but has left no disabling or permanent physical damage;**
 - (iii) ~~a penalty~~ A fine ranging from fifty dollars (\$50) to two hundred ninety-nine dollars (\$299) per day for each rule violation may be assessed for any violation of these rules which demonstrates a reckless and serious disregard for the physical or mental health or safety of a child in care but which may or may not result in

physical injury to a child or for any other violation of these rules for which a license or commission may be revoked.**

6. The Ddepartment will consider in assessing an civil penalty enforcement fine the severity of the rule violation, the duration of noncompliance, the holder of the license or commission's prior licensure history and the voluntary reporting of the violation for which the fine is being imposed on the licensee or commission holder.**
7. The assessment of an civil penalty enforcement fine will not preclude the Ddepartment from taking any additional actions authorized by law or regulation including but not limited to license or commission restriction, suspension, revocation, emergency monitors or the seeking of an injunction against the continued operation of the group day care home.**

(+) (m) **Complaints.** All complaints concerning licensed or commissioned or unlicensed group day care homes or day child care learning centers may be submitted to the Ddepartment by telephone, letter, e-mail, facsimile, or personal conference. Complaints will be investigated by a Ddepartment representative, if appropriate. A written report of the findings of the investigation will be sent to the complainant upon request where authorized by law.**

Authority O.C.G.A. Sec. 31-2-4 (1982 Supp.); O.C.G.A. Secs. 31-1-4, 49-5-1 et seq., 50-13-1 et seq., 20-1A-1 et seq. **Administrative History.** Original Rule entitled "Variances and Waivers" was filed on February 21, 1983; effective March 23, 1983, as specified by the Agency. **Repealed:** New Rule entitled "Enforcement and Penalties" adopted. F. Apr. 1, 1991; eff. Apr. 21, 1991.

**RULES OF
BRIGHT FROM THE START:
GEORGIA DEPARTMENT OF EARLY CARE AND LEARNING**

**CHAPTER 290-2-3
Family Day Care Homes**

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290-2-3-.08 Children's Records.

(1) The home shall maintain current and updated individual records on each child in care. The home shall maintain the records outlined herein while the child is in care and for a period of one (1) year after such child is no longer in care at the family day care home. Such records shall include:

(a) Identifying information (child's name, birth date, parents name, or guardian's name if applicable, home and business addresses, telephone numbers);

(b) Name, address and telephone number of persons including child's physician to contact in emergencies;

(c) Evidence of age-appropriate immunizations, or a signed affidavit certifying that the required immunizations conflict with the religious belief of the parent or guardian or a physician statement that immunization is contraindicated;

(d) Written authorization for the child to receive emergency medical treatment when the parent

or guardian is not available;

(e) Documentation of any medications given as described in rule .11 (1)(e);

(f) Record of any allergies and other known medical problems;

(g) Description of accidents or serious illnesses occurring while child is in the family day care home, including date, time and condition under which it occurred and the action taken;

(h) Parental or guardian agreements for transportation, field trips, swimming and/or other activities away from the home if the child will be participating in these activities;

(i) Name of person(s) to whom the child may be released. Such information shall contain the authorized person's address, telephone numbers, relationship to child and to parent(s) or guardian, and other identifying information.

(j) Documentation that the child has been signed in and signed out of the family day care home at the time of each arrival and departure by the parent, guardian or person(s) authorized by the parent to drop off or pick up the child, which includes at least the following information: child's name, date, drop-off and pick-up times, and initials of parent, guardian or other authorized person, and which need not be filed in the child's individual record. The family day care home shall ensure that children are only released to authorized person(s), and the home shall take necessary steps to determine that any such person(s) presenting to pick up a child in care is authorized by the parent(s) or guardian of the child and that person matches the identifying information provided by the parent or guardian.

(2) Policies and Procedures. Each family day care home shall establish policies and procedures, which shall be kept current, made available to the parents, and used to govern the operations of

the family day care home. The policies and procedures shall:

(a) Be consistent with applicable laws, regulations and these rules;

(b) Include a written description of the services to be provided which specifies the following:

(i) Ages of children served;

(ii) Months of operation;

(iii) Days of operation;

(iv) Hours of operation;

(v) Dates the family day care home will be closed;

(vi) Admission requirements, including parental responsibilities for supplying and maintaining accurate required record information and escorting child to and from the family day care home;

(vii) Standard fees, payment of fees, fees related to absences and vacations and other charges such as transportation, etc.; and

(viii) Transportation provided, if any;

(c) The policies and procedures shall also include written procedures for the following:

(i) Guidance and discipline techniques;

(ii) Handling emergency medical care, including where the children will be taken for emergency medical care;

(iii) Administering medication and recording noticeable adverse reactions to medication;

(iv) Notifying parents or guardian of their child's:

(I) Illness;

(II) Injury; and

(III) Exposure to a notifiable communicable disease;

(v) Noticeable adverse reaction to medication(s);

(vi) Exclusion of sick children;

(vii) Exclusion of children with communicable diseases, as defined on the chart of communicable diseases which contains recommendations for the exclusion of sick children and their readmission, and is provided by the ~~d~~Department;

(viii) Protection of children in the event of:

(I) Severe weather;

(II) Fire; and

(III) Physical plant problems, such as a power failure, that affect climate control, loss of water, or structural damages;

(ix) The transportation of children to and from school or home, if provided, to include the procedure to be followed if no one is home to receive the transported child;

(x) Identification of others providing care. The provider must inform the parents or guardian of children in care of the names of any caregiver and their responsibilities, and the names of the persons who would be called upon in an emergency;

(xi) Parents' or guardian's ability to visit the family day care home unannounced and at any time that their child is in care;

(xii) Any information requested by the parent or guardian concerning the operation of the family day care home or the care of the child. The parent(s) or guardian will be provided daily communication (verbal/written) regarding the care of the child, especially with infants, toddlers and nonverbal children. Additionally, the provider must bring special problems or significant developments to the parent's or guardian's attention as soon as they arise;

(xiii) Notification of the existence of a firearm in the family day care home;

(xiv) Notification of any changes in the regular composition of the household. The provider must notify the parent(s) or guardian of anyone regularly on the premises, including but not limited to spouse, friend(s), relative(s), or significant other(s);

(xv) Notification of the existence of any pets or other animals residing in the home or on the property of the family day care home; and

(xvi) Notification of infant sleep position practices. The provider must notify parent(s) of Sudden Infant Death Syndrome (SIDS) risk reduction practices, ~~sleep~~ sleep positioning policies, and arrangements for placing all infants on their backs for sleep.

(xvii) Documenting the child's arrival and departure. The parent or person(s) authorized by the parent or guardian to drop off and pick up the child will document each time the parent, guardian or authorized person drops off and picks up the child. The documentation shall include at least the following information: the date, the child's name, the arrival and departure times, and the signature or initials of the parent, guardian or authorized person and shall be made available to the Department in printed or written form upon request.

(3) Documentation of family relationships for related children, other than the provider's own

children, cared for in the home shall be maintained and shall include a notarized statement by the related child's parents attesting to the relationship.

(4) Documentation of the non-pay status of children in care for whom no pay is received shall be maintained and shall include a notarized statement by such child's parents or guardian attesting to the non-pay status.

(5) Copies of satisfactory criminal records check determinations, or preliminary records check applications and (fingerprint) records check applications, if determinations are in the application process, shall be maintained in the home by the provider.

(6) Documentation of all required training required by these rules shall be maintained in the home by the provider, and shall include the title of training courses received by the provider and any staff, the dates and the number of hours of the courses, and the names of the trainers or sponsoring organizations.

(7) If applicable, documentation of approved water and sewage disposal systems shall be maintained in the home by the provider.

(8) Documentation of monthly fire drills required by rule .11(2)(c) shall be maintained in the home.

Authority O.C.G.A. Secs. 20-1A-1 et seq., 49-5-8, 49-5-12. **History.** Original Rule entitled "Equipment and Supplies" adopted. F. Feb. 21, 1983; eff. Mar. 23, 1983, as specified by the Agency. **Repealed:** New Rule entitled "Records" adopted Feb. 4, 1994; eff. Mar. 1, 1994, as specified by the Agency. **Repealed:** New Rule of same title adopted. F. Jan. 12, 2009; eff. Feb. 1, 2009.

Rule 290-2-3-.09 Children's Activities.

(1) The family day care home shall provide a variety of daily activities appropriate for the

children's chronological ages and developmental levels. Children with special needs shall be integrated into the activities provided by the family day care home unless contraindicated medically or by parental agreement. Activities shall be planned for each group to allow for:

- (a) Indoor and outdoor play;
- (b) A balance of quiet and active periods;
- (c) A balance of supervised free choice and caregiver-directed activities;
- (d) Individual, small group, and large group activities;
- (e) Large muscle activities, such as, but not limited to, running, riding, climbing, balancing, jumping, throwing, or digging;
- (f) Small muscle activities, such as, but not limited to, building with blocks or construction toys, use of puzzles, nesting or stacking toys, pegs, lacing, sorting beads, or clay;
- (g) Language experiences, such as, but not limited to, listening, talking, rhymes, finger plays, stories, use of film strips, recordings or flannel boards;
- (h) Arts and crafts, such as, but not limited to, painting, coloring, cutting, or pasting;
- (i) Dramatic play, such as, but not limited to, play in a home center, with dolls, puppets, or dress up;
- (j) Rhythm and music, such as, but not limited to, listening, singing, dancing, or making music; and
- (k) Nature and science experiences, such as, but not limited to, measuring, pouring, activities

related to the "world around us" such as nature walks, plants, leaves or weather, or experiences in using the five senses through sensory play.

(2) Children shall be helped to develop skills in all areas (washing, dressing, toileting, etc.) appropriate to the age and ability of the child.

(3) Children shall spend some time of each day outside when the children's health and the weather permits.

(4) There shall be a supervised nap period during the day for preschool age children.

(5) Infants and toddlers shall not routinely be left in cribs, or playpens except for rest or sleep.

(6) The use of entertainment media, such as television programs or video tapes, and computer games shall be limited to programs, tapes, and software that are produced for the benefit of audiences comprised of young children. Such uses of entertainment media shall be used only in addition to other activities, shall not be the primary source of children's activities, and should be limited to no more than two hours daily.

(7) The provider shall not engage in or allow children or other adults to engage in activities that could be detrimental to a child's health or well-being such as, but not limited to, horse play, rough play, wrestling, and picking up a child in a manner that could cause injury.

Authority O.C.G.A. Secs. 20-1A-1 et seq., 49-5-8, 49-5-12. **History.** Original Rule entitled "Building and Supplies" adopted. F. Feb. 21, 1983; eff. Mar. 23, 1983, as specified by the Agency. **Repealed:** New Rule entitled "Children's Activities" adopted Feb. 4, 1994; eff. Mar. 1, 1994, as specified by the Agency. **Repealed:** New Rule of same title adopted. F. Jan. 12, 2009; eff. Feb. 1, 2009.

Rule 290-2-3-.11 Health, Safety and Discipline.

(1) Health.

(a) The department's current communicable disease chart of recommendations for exclusion

of sick children from the home and their readmission shall be followed. Such chart shall be provided by the department.

(b) Age appropriate immunization, or an affidavit or physician's statement as described in Rule .08(1)(c) shall be required for each preschool age child upon admission to the home or within 30 days thereafter.

(c) Parents of any child who becomes ill or is injured while in care shall be notified immediately of any illness or injury requiring professional medical attention, or any illness which may not require professional medical attention but which produces symptoms causing moderate discomfort to the child, such as, but not limited to, any of the following: elevated temperature, vomiting or diarrhea.

(d) The home shall obtain emergency medical services when required by a child's condition.

(e) Except for first aid, personnel shall not handout prescription or nonprescription medications to a child without specific written authorization from the child's physician or parent. All medications shall be stored in accordance with the prescription or label instructions and kept in places that are inaccessible to children. Each dose of medication given to a child shall be documented showing the child's name, name of medication, date and time given, and the name of the person giving the medication.

(f) The home and any vehicle used by the home for transportation of children shall have a first aid kit which shall at least contain: scissors, tweezers, gauze pads, thermometer, adhesive tape, band-aids, insect - sting preparation, antiseptic cleaning solution, antibacterial ointment, bandages, disposable rubber gloves, protective eyewear, facemask, and cold pack. The first aid kit, together with a first aid instruction manual which must be kept with the kit at all times, shall be stored in a central location so that it is not accessible to children but is easily accessible to the provider and staff. The home must also maintain written directions for the use of universal precautions for handling blood and bodily fluids. The directions on the use of universal precautions must be kept with the first aid kit at all times.

(g) Diapers shall be changed in the child's own crib or on a nonporous surface which is cleaned with a disinfectant and dried with a single use disposable towel after each diaper change.

(h) Soiled diapers and linens shall be disposed of in a closed container and personnel shall wash their hands with soap and running water immediately after each diaper change.

(i) If used, toilet potty chairs shall after each use be emptied by disposal in a flush toilet, cleaned with a disinfectant, and stored in the bathroom. If a sink is used, it shall be disinfected after each use.

~~(i)~~(j) When children are present for care, providers, employees, and any other persons shall not smoke or use tobacco except in areas which are totally separated from areas used for child care. If smoking occurs in other areas of the home, the provider shall so advise parents.

~~(j)~~(k) Children shall be kept clean, dry, and comfortable.

~~(k)~~(l) Pets in the home shall be vaccinated in accordance with the requirements of the local county Boards of Health. Unconfined pets shall not be permitted in child care areas when children are present except for supervised learning experiences.

(m) Pets and all other animals shall be controlled to assure that proper sanitation of the premises is maintained and animals are not a hazard to the children, personnel or other visitors. No animal, such as but not limited to, pit bull dogs, ferrets, and poisonous snakes, which may have a vicious propensity, shall be permitted on the family day care home premises at any time there are children on the premises. Horses or other farm animals shall not be quartered on any property over which the provider exercises any control that is located within five hundred (500) feet of the building in which the family day care home is located.

(2) Safety.

(a) A home shall have a written plan for handling emergencies, including but not limited to fire, severe weather, loss of electrical power or water, and death, serious injury or loss of a

child, which may occur at the home. No home personnel shall impede in any way the delivery of emergency care or services to a child by licensed or certified emergency health care professionals.

(b) An operable telephone shall be readily available in the home with the following telephone numbers posted in a conspicuous place next to the telephone. In those areas of the state serviced by the 911 emergency number, 911 may be posted in lieu of the phone numbers required for 2., 3., and 4. below:

1. A physician or hospital;
2. An ambulance or rescue squad service;
3. The local fire department;
4. The local police department;
5. The county health department; and
6. The regional poison control center.

(c) The home shall practice fire drill procedures with children at least monthly. Such drills shall be documented and maintained on file for one year.

(d) Children shall not have access to hanging cords or other hazardous objects.

(e) Clear glass doors shall be marked to avoid accidental impact.

(f) Poisons, medicines, cleaning agents, razors, aerosol cans and other potential hazardous materials shall be stored out of reach of children or in locked cabinets.

(g) Firearms shall be stored so they are not accessible to children.

(h) At least one UL Approved smoke detector shall be on each floor of the home and such detectors shall be maintained in working order. At least one 2-A:5-B:C fire extinguisher shall be kept in the child care area to be located no more than thirty feet from the kitchen. The extinguisher shall be maintained in working order and shall be inaccessible to the children.

(i) Flammable liquids, such as gasoline or kerosene, shall not be stored inside the home.

(j) If children are transported in an automobile by the provider or a home's employee, the driver shall have a current driver's license and children shall be restrained by either individual seat belts or appropriate child restraints in accordance with state law. No child shall be left unattended in a motor vehicle.

(3) Discipline. Disciplinary actions used to correct a child's behavior, guidance techniques and any activities in which the children participate or observe at the home shall not be detrimental to the physical or mental health of any child.

(a) A provider or a home's employees shall not:

1. Physically or sexually abuse a child, or engage in or permit others to engage in sexually overt conduct in the presence of any child enrolled in the home; or
2. Inflict corporal/physical punishment upon a child; or
3. Shake, jerk, pinch or handle roughly a child; or
4. Verbally abuse or humiliate a child which includes, but is not limited to, the use of threats, profanity, or belittling remarks about a child or his family; or
5. Isolate a child in a dark room, closet, or unsupervised area; or
6. Use mechanical or physical restraints or devices to discipline children; or
7. Use medication to discipline a child, or to control children's behavior without written medical authorization issued by a licensed professional and given with the parent's written consent.
8. Discipline a child by restricting unreasonably a child from going to the bathroom; or by punishing toileting accidents; or by force feeding a child; or by not feeding a child regularly scheduled meals and/or snacks; or by forcing or withholding naps; or by allowing children to discipline or humiliate other children; or by confining a child for disciplinary purposes to a swing, high chair, infant carrier, walker or jump seat.

9. Commit any criminal act, as defined under Georgia law which is set forth in O.C.G.A. Sec. 16-1-1 et seq., in the presence of any child enrolled in the home.

Authority O.C.G.A. Secs. 20-1A-1 et seq., 49-5-8, 49-5-12 **History.** Original Rule entitled "Registration" adopted. F. Feb. 21, 1983; effective Mar. 23, 1983, as specified by the Agency. **Repealed:** New Rule entitled "Health, Safety and Discipline" adopted Feb. 4, 1994; eff. Mar. 1, 1994, as specified by the Agency. **Repealed:** New Rule of same title adopted. F. Jan. 12, 2009; eff. Feb. 1, 2009.

Rule 290-2-3-.12 Equipment and Supplies.

- (1) The home shall provide a variety of age-appropriate toys, books, and play equipment and materials to insure that each child shall have opportunity to experience and participate in a variety of activities.
- (2) Provision shall be made for each child to have a comfortable, clean place to nap. A crib with a waterproof mattress shall be provided for each child under one year of age.
- (3) Individual or disposable wash cloths and towels shall be provided.
- (4) ~~Furnishings~~ Furniture and equipment shall be kept clean and in a safe usable condition.
- (5) All indoor and outdoor furniture, activity materials, and equipment shall be:
- (a) Used in a safe and appropriate manner by each employee and child in attendance;
- (b) Used in accordance with the manufacturer's instructions, recommendations, and intended use;
- (c) Free from hazardous conditions such as, but not limited to, sharp rough edges or toxic paint;
- (d) Kept clean;
- (e) Placed so as to permit the children's freedom of movement and to minimize danger of accident and collision;
- (f) Secured if equipment and furniture is of a weight or mass that could cause injury from tipping, falling, or being pulled or pushed over. Potentially unstable equipment and furniture

that might injure a child if not secured include, but are not limited to, televisions, chests of drawers, bookcases, shelving, cabinets and fish tanks. Examples of items not required to be secured include, but are not limited to, child-sized tables and chairs, rocking chairs, and cribs.

(6) Toys shall be stored on low, open shelves accessible to children in each room or assigned area. Toys that launch projectiles, such as dart guns, pop guns, slingshots, etc., shall not be allowed in the home, and balloons shall not be accessible to preschool children.

(7) Toys for Children Under Three. Toys for children under three (3) years of age shall also be age-appropriate. Those toys shall be:

(a) Non-toxic and lead-free;

(b) Too large to be swallowed by a child and not capable of causing asphyxiation or strangulation;

(c) Free of sharp pieces, edges or points of small parts which may be pried off by a child;

(d) Free of rust;

(e) Easily cleaned with a disinfectant daily.

(8) Tables. There shall be table space provided for each child who is able to sit at a table unassisted. An appropriately sized chair or bench shall be provided for each child who is not an infant and who is able to use a chair or bench.

Authority O.C.G.A. Secs. 49-5-8, 49-5-12; 20-1A-1 et seq. **History.** Original Rule entitled "Inspections" adopted. F. Feb. 21, 1983; eff. Mar. 23, 1983, as specified by the Agency. **Repealed:** New Rule entitled "Equipment and Supplies" adopted. F. Feb. 4, 1994; eff. Mar. 1, 1994, as specified by the Agency.

290-2-3-.15 Enforcement and Penalties.

~~Enforcement of these rules and regulations shall be done in accordance with Rules and Regulations for Enforcement of Licensing Requirements, Chapter 290-1-6, and O.C.G.A. 49-5-12 and 49-5-12.1, Penalties for Violation of Child Welfare Agency Laws and Regulations.~~

~~(a) If the department finds that a registrant has violated any provision of these rules or other laws, rules, regulations, or formal orders related to initial or continued registration, it may, subject to notice and opportunity for hearing, take any of the following actions: administer a public reprimand; limit or restrict a registration; suspend a registration; impose a fine; refuse to renew a registration, or revoke a registration.~~

No family day care home shall operate in the State without a Certificate of Registration that has been issued by the Department. A registration to operate a family day care home may be denied, revoked, restricted or suspended in accordance with the following:

(a) Refusal of a License, Commission or Registration. The Department shall refuse to issue a registration upon a showing of:

1. Noncompliance with the Rules and Regulations for Family Day Care Homes which are designated in writing to the facilities as being related to children's health and safety; or
2. Flagrant and continued operation of an unregistered family day care home in contravention of the law; or
3. Prior license, commission or registration denial or revocation within one (1) year of application.

(b) Refusal of a License, Commission or Registration. The Department may refuse to issue a registration upon a showing of:

1. The applicant or the agent of the applicant denies the Department's representative access to the family day care home for the purposes of determining whether a registration will be granted; or
2. The owner or employees of the family day care home do not undergo the applicable records check and receive satisfactory determinations; or
3. The applicant or agent of the applicant knowingly makes any false statement of material information in connection with the application for registration, or in the alteration or falsification of records maintained by the applicant in connection with the application for registration; or
4. The applicant or alter ego of the applicant has transferred ownership or governing authority of a family day care home, group day care home or a child care learning center within one (1) year of the date of the new application when such transfer was made in order to avert denial, suspension, or revocation of a license, commission or registration; or
5. The applicant or alter ego of the applicant or persons in management or control of the family day care home have failed to pay a civil penalty or enforcement fine previously imposed by the Department.

(c) Revocation of a License, Commission or Registration. The Department may revoke a registration in the following instances:

1. Where the Department's representative is refused access to the family day care home for the purpose of determining whether the family day care home is in compliance with these rules; or
2. Where the Department determines that a non-correctable deficiency, abuse or dereliction

exists in the operation or management of the family day care home; or

3. Where the Department determines that a correctable abuse, dereliction or deficiency in the operation or management of the family day care home has not been corrected within a reasonable time after:
 - (i) having been brought immediately to the attention of the administrator of the family day care home by a Department representative; and
 - (ii) having been advised in writing of the deficiencies and setting a time not to exceed ten (10) working days for the filing of an acceptable plan of correction; and
 - (iii) the provider fails to submit an acceptable plan of correction to the Department within the specified time limits. In determining whether a plan of correction is acceptable, the Department will consider the extent of the deficiencies, whether the provider has previously been cited for the same deficiencies, the history of compliance including whether the provider has complied with previous plans of correction, and whether the correction required can be maintained over time; or
4. The provider fails to follow the accepted plan of correction; or
5. Where the provider or the provider's employees do not undergo the applicable records checks and receive satisfactory determinations; or
6. Where there is a flagrant abuse, dereliction or deficiency that constitutes shocking intentional misconduct; or
7. Where the provider knowingly makes any false statement of material information in connection with any statement made or on any documents submitted to the Department as

part of an inspection, survey, or investigation, or in the alteration or falsification of records maintained by the provider; or

8. Where the provider or alter ego of the provider fails to pay a civil penalty or enforcement fine imposed by the Department after the time period for requesting an appeal of the notice of imposition of civil penalty or enforcement fine has expired and the provider has not submitted an appeal within required time frame in accordance with these rules and regulations; or
9. Where the provider fails to pay a civil penalty or enforcement fine imposed by the Department after the licensee has submitted a timely appeal of the notice of imposition of civil penalty or enforcement fine and the imposition of the civil penalty or enforcement fine has been affirmed in accordance with the Georgia Administrative Procedure Act, O.C.G.A. Sec. 50-13-1 et seq., and applicable law.

(d) Suspension of a Registration. The Department may suspend the registration to operate a family day care home in the following instances:

1. Where the provider or employees of a family day care home do not undergo the applicable records checks and receive satisfactory determinations, or
2. Where the Department finds that the public health, safety or welfare imperatively requires emergency action and incorporates a finding to this effect in its order summarily suspending the license pending proceedings for revocation or other action, which proceedings shall be promptly instituted and determined.

(e) Restriction of a Registration. The Department may restrict or limit a registration from providing certain kinds of care or services to children or limiting the number and/or age of the children who may be served if the Department determines that the provider either cannot comply with these rules or has not complied with these rules.

(f) **Emergency Order.** Notwithstanding other remedies available to the Department which may be pursued at the same time, the Commissioner or his/her designee may order the emergency placement of a monitor or monitors in a family day care home in accordance with the following:

1. The Department's rules and regulations are being violated which threaten the health, safety, or welfare of children in care and when one or more of the following conditions are present:
 - (i) The family day care home is operating without a license, commission or registration; or
 - (ii) The Department has denied the registration or has initiated action to revoke the existing registration of the family day care home; or
 - (iii) Children are suspected of being subjected to injury or life-threatening situations or the health or safety of a child or children is in danger.
2. A monitor may be placed in a family day care home for no more than ten (10) consecutive calendar days, during which time the monitor shall observe conditions and regulatory compliance with any recommended remedial action of the department. Upon expiration of the ten (10) day period, should conditions warrant, the initial ten (10) day period may be extended for an additional ten (10) day period. The monitor shall report to the Department. The monitor shall not assume any administrative responsibility within the family day care home, nor shall the monitor be liable for any actions of the family day care home. The salary and related costs and travel and subsistence allowance as defined by Department policy of placing a monitor in a family day care home shall be reimbursed to the Department by the family day care home, unless the order placing the monitor is determined to be invalid in a contested case or by final adjudication by a court of competent jurisdiction, in which event the costs associated with the monitor shall be paid

by the Department.

3. The emergency order shall contain the following:
 - (i) The scope of the order;
 - (ii) The reasons for the issuance of the order;
 - (iii) The effective date of the order if other than the date the order is issued;
 - (iv) The person to whom questions regarding the order are to be addressed;
and
 - (v) Notice of the right to a preliminary hearing.
4. Unless otherwise provided in the order, an emergency order shall become effective upon its service to the owner of the family day care home or any other agent, employee, or person in charge of the family day care home at the time of the service of the order.
5. The request for a preliminary hearing shall be made in writing within five (5) days from the time of service, excepting weekends. The request must be made to the representative of the Department designated in the order. Unless a request is made to appear in person, the preliminary hearing shall consist of an administrative review of the record, written evidence submitted by the family day care home affected, and a preliminary written argument in support of its contentions.
6. If a request is made to appear in person at the preliminary hearing, the family day care home shall provide the name and address of the person or persons, if any, who will be representing the family day care home in the preliminary hearing.

7. Upon receipt of a request for a preliminary hearing, the Department shall set and give notice of the date, time and location of the preliminary hearing. The preliminary hearing shall be held as soon as possible after a request therefore but in no event later than seventy-two (72) hours after such request, provided that a family day care home may request that such hearing be held earlier; provided, however, that in no event will a hearing be held on a weekend or holiday.
8. If a personal appearance is requested, the preliminary hearing shall consist of a review of the evidence in the record, any additional evidence introduced at the hearing, and any arguments made. A recording shall be made of the hearing.
9. The Department shall, where practicable, issue an immediate oral order and shall, in all instances, issue a written order within four (4) business days after the close of the hearing.
10. Pending final appeal of the validity of any emergency order issued as provided for pursuant to O.C.G.A. Sec. 20-1A-13, such emergency order shall remain in full effect until vacated or rescinded by the Commissioner or his/her designee.
11. The Department is not precluded from taking any other actions permitted by other laws or regulations during the time that an emergency order is in force.

(g) **Right to a Hearing.** The Department's action revoking or refusing to renew or issue a registration required pursuant to O.C.G.A. Sec. 20-1A-1 et seq. or any other adverse action, such as the imposition of an enforcement fine, the restriction or suspension of a registration, shall be preceded by notice and opportunity for a hearing and shall constitute a contested case within the meaning of the "Georgia Administrative Procedure Act", O.C.G.A. Sec. 50-13-1 et seq., except that only thirty (30) days' notice in writing from the Commissioner's designee shall be required prior to license, commission or registration revocation and except that the hearing held relating to such action by the Department may be closed to the public if the hearing officer

determines that an open hearing would be detrimental to the physical or mental health of any child who will testify at that hearing.

1. In connection with the Department instituting proceedings to revoke, suspend, refuse to renew or restrict a previously issued registration, the Department shall provide notice sent by certified mail setting forth the facts or conduct which has warranted the Department's action. The notice shall inform the provider of the opportunity to demonstrate that the registration holder was in full compliance with all lawful requirements for the retention of the registration at the time that the facts or conduct warranting the revocation, suspension or restriction action allegedly occurred. However, this notice shall not be required in the following instances:

(i) The Department finds that the public health, safety, or welfare imperatively requires emergency action and incorporates a finding to that effect in its order, in which case summary suspension of the registration may be ordered pending proceedings for revocation or suspension or other action, which proceeding shall be promptly instituted and determined; or

(ii) The Department's order is expressly required, by a judgment or a statute, to be made without the right to or hearing or continuance of any type.

2. The notice of revocation, suspension or restriction of a registration becomes effective thirty (30) days from the day of notice unless the registration holder requests a hearing. A request for a hearing must be made in writing within ten (10) days of receipt of the notice of revocation, suspension or restriction.

(h) Notice of Hearing. If the registration holder requests a hearing, a notice of hearing shall be mailed or served personally on the provider. The notice shall contain the following:

1. A statement of the date, time, place and nature of the hearing;

2. A statement of the legal authority and jurisdiction under which the hearing is to be held;
3. A reference to the particular section of the statutes and rules involved;
4. A short and plain statement of the matters asserted. The Department may refer to any child that is the subject of a deficiency or violation in the notice by the child's initials. The name of the child so referenced will be released orally to the holder of the license, commission or registration upon written request to the Department. If the Department is unable to state the matters in detail at the time, the notice may be limited to a statement of the issues involved. Thereafter, upon application approved by the hearing officer, a more definite and detailed statement shall be furnished; and
5. A statement as to the right of any party to subpoena witnesses and documentary evidence through the Department.

(i) **Inspection Warrants.** If a Department representative is denied entrance to a family day care home which is believed to be subject to licensure or registration, an application for an inspection warrant may be made by the Department to a court of competent jurisdiction and, if granted, used to gain entry to that family day care home.

(j) **Injunctive Relief.** The Department may without regard to the availability of other remedies, including administrative remedies, seek an injunction against the continued operation of a family day care home without a registration or the continued operation of a family day care home in willful violation of O.C.G.A. Sec. 20-1A-1 et seq. or of any regulation of the Department or in violation of any other order of the board or of the Department.

(k) **Criminal Penalties.** The criminal penalties which may be imposed for violation of these rules are as follows:

1. Any person who violates the provisions of O.C.G.A. Sec. 20-1A-1 et seq. or who hinders, obstructs, or otherwise interferes with any representative of the Department in the discharge of that person's official duties in making inspections or in investigating complaints shall be guilty of a misdemeanor.
2. Any person who shall make, utter, execute, or submit to the Department any oral or written representation, knowing the same to be false, for the purpose of obtaining anything of value, including any service, shall be guilty of a misdemeanor.
3. Any family day care home which operates without a currently valid license, commission, or registration issued by the Department is subject to the provisions O.C.G.A. Sec. 20-1A-10(t) which provides upon conviction of operating a family day care home without a license, commission or registration, for a fine of not less than fifty dollars (\$50) nor more than two hundred dollars (\$200) for each offense. Each day of operation without a license, commission or registration constitutes a separate criminal offense.

(l) **Enforcement Fines.** The Department may assess an enforcement fine of up to five hundred dollars (\$500) per day for each rule violation, not to exceed a total of twenty-five thousand dollars (\$25,000). The Department may assess enforcement fines in accordance with the following:

1. A fine, not exceeding five hundred dollars (\$500) per day for each rule violation, may be assessed by the Department against any family day care home provider who:
 - (i) Violates any licensing, commissioning or registering provision of O.C.G.A. Sec. 20-1A-1 et seq. or any rule, regulation, or order issued under O.C.G.A. Sec. 20-1A-1 et seq. or any term, condition, or limitation of any license, commission or certificate of registration under O.C.G.A. Sec. 20-1A-1 et seq. thereby subjecting a child in care to injury or a life-threatening situation; or

- (ii) Commits any violation for which a license, commission or registration may be revoked.
- 2. If any violation is a continuing one, each day of such violation will constitute a separate violation for the purpose of computing the applicable enforcement fine.
- 3. Whenever the Department proposes to subject a provider to the imposition of an enforcement fine, it shall notify such provider in writing. The notice shall set forth the following:
 - (i) The date, facts, and nature of each act or omission with which the provider is charged;
 - (ii) The specific and particular provisions of the Official Code of Georgia Annotated section, the rule, regulation, order, license, commission or registration involved in the violation;
 - (iii) Each fine which the Department proposes to impose and its amount;
 - (iv) That the provider has an opportunity to show in writing, within ten (10) days of the receipt of the notice, why such fine should not be imposed;
 - (v) That the failure to pay the enforcement fine, subsequently determined by the Department, if any, may result in collection through a civil action (lawsuit); and
 - (vi) That the provider also has the right to appeal the imposition of the enforcement fine pursuant to the Georgia Administrative Procedure Act, O.C.G.A. Sec. 50-13-1 et seq., by filing a timely request for a hearing within ten (10) days of receipt of the notice.

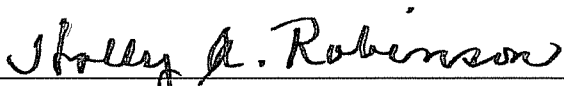
4. The written notice of the intention to impose an enforcement fine shall be sent by registered or certified mail by the Department to the last known address of such provider.
5. The amount of the enforcement fine will be assessed in accordance with the following:
 - (i) A fine of five hundred dollars (\$500) per day for each rule violation may be assessed for any violation of these rules which has resulted in a disabling or permanent injury or the death of a child;
 - (ii) A fine ranging from three hundred dollars (\$300) to four hundred ninety-nine dollars (\$499) per day for each rule violation may be assessed for any violation of these rules which has resulted in an injury or harm to a child but has left no disabling or permanent physical damage;
 - (iii) A fine ranging from fifty dollars (\$50) to two hundred ninety-nine dollars (\$299) per day for each rule violation may be assessed for any violation of these rules which demonstrates a reckless and serious disregard for the physical or mental health or safety of a child in care but which may or may not result in physical injury to a child or for any other violation of these rules for which a license, commission or registration may be revoked.
6. The Department will consider in assessing an enforcement fine the severity of the rule violation, the duration of noncompliance, the holder of the license, commission or registration's prior licensure history, and the voluntary reporting of the violation for which the fine is being imposed on the licensee, commission holder or registrant.
7. The assessment of an enforcement fine will not preclude the Department from taking any additional actions authorized by law or regulation including but not limited to license, commission or registration restriction, suspension, revocation, emergency monitors or the seeking of an injunction against the continued operation of the family day care home.

(m) **Complaints.** All complaints concerning unregistered family day care homes may be submitted to the Department by telephone, letter, e-mail, facsimile or personal conference. Complaints will be investigated by a Department representative, if appropriate. A written report of the findings of the investigation will be sent to the complainant upon request where authorized by law.

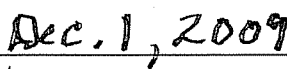
Authority O.C.G.A. Secs. 31-2-6, 49-5-8, 49-5-12, ~~20-1A-1~~ et seq. **History.** Original Rule entitled "Enforcement" adopted. F. Feb. 21, 1983; eff. Mar. 23, 1983, as specified by the Agency. **Repealed:** New Rule entitled "Enforcement and Penalties" adopted. F. Feb. 4, 1994; eff. Mar. 1, 1994, as specified by the Agency.

Prior to their adoption, these rule amendments were made available for public inspection in accordance with O.C.G.A. Section 50-13-3. These amendments will not take effect until the expiration of twenty (20) days after the date these rule amendments are filed with the Administrative Procedures Division of the Secretary of State. See O.C.G.A. Section 50-13-6.

ORDERED THIS 1st DAY OF DECEMBER 2009.



Holly A. Robinson
Commissioner
Bright from the Start:
Georgia Department of Early Care and Learning
10 Park Place, Suite 200
Atlanta, Georgia 30303



Date